Relationship with Non-Muslims and their Rights

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بِسْمِ اللَّهِ الرَّحْمَٰنِ الرَّحِيمِ

In the Name of Allah, the Beneficent, the Merciful!

About the translation

The "Relationship with non-Muslims and their Rights" was the first scholarly attempt on this topic in the Urdu language. Hence it was well received by the intellectuals. There have been four editions of the same. Immediately after its publication there arose a need to bring out its English translation. In view of this need the famous institution in the UK, the Islamic Foundation translated its introduction and the first chapter titled "Relations with Non-Muslims and relevant regulations". The second chapter titled "Rights of Non-Muslims in an Islamic State" has been translated into English by Prof. U. Muhammad Iqbal, Chennai who is a well known litterateur and translator. Now the entire book is being published under the title – "Relationship with Non-Muslims and their Rights".

I am grateful to Dr. Muhammed Rafat, Prof. and Ex-Chairman, Department of Applied Sciences and Humanities, Jamia Millia Islamia, New Delhi for going through the entire translation and making the necessary corrections. I also wish to thank Dr.

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Jalaluddin
January 24, 2018

PREFACE
(Fourth Edition)

In the days of yore, nationalities were generally based on one race, one culture, and one language. If there were ever a few outsiders, they had the status of being alien, and it was not a status of dignity. Communication links between two nationalities were few and far between. In due course, conditions began to change and plural societies began to emerge. Allah's Messenger (May Allah bless and greet him) migrated to Madinah and a state was established on Islamic lines. At the initial stage itself, he entered into a treaty with the Jews living in the suburbs of Madinah. The treaty guaranteed them full religious freedom and they were taken on board for the defence and protection of the nascent state.

When the territory under the political power of Islam began to expand, huge masses of people, inhabiting the captured countries, pledged their love and loyalty to Islam voluntarily, as a result of their encounter with the ethically elevating precepts of Islam and the winsome conduct of Muslims towards them. However, there were people who continued to profess other religions in spite of the political changes. Islam extended to them freedom to profess, practise and propagate their religions, and to enjoy citizenship rights.

At that time, the whole world presented the face of a plural society owing to various reasons, to all intents

and purposes. In any given country, where a majority has one race, one religion or one language, there is also the presence of a minority belonging to a different race, professing a different religion, and speaking a different language. The Constitution grants both groups equal rights. It is widely acknowledged that as a principle, minorities should be given equal rights. This principle cannot be legally denied or challenged.

What is Islam's standpoint on this issue? How will Muslims behave with minorities in countries where they are numerically advantaged and politically dominant? And, where Muslims are in a minority, how will they relate to the majority? These questions are as pertinent to Muslim countries like the Middle East, North and West Africa and Central Asia as they are to Europe. Moreover, in the context of the Republic of India, these questions assume special significance, as Muslim rule lasted a millennium here and even today, Muslims constitute almost 14 per cent of the population, according to census, and according to the Muslim estimate, their percentage may be higher.

This subject is academic in nature. The Quran and the Hadith provide guidelines in this connection. Our scholars and researchers of the past have discussed, in detail and depth, the rights of Muslims and non-Muslims in a plural society in the light of their respective circumstances. The fruits of their labour of love facilitate us to comprehend Islam's stance on this issue.

At present, the subject has become a burning topic because anti-Muslim groups project the image of Islam as a religion which orders its followers to behead non-Muslims and to look upon them as a target for decimation and which is totally devoid of forbearance

and love for enemies. Likewise, when subjects like "Islamic State" or "Islamic System of Governance" are under discussion, emotionalism, instead of sober analysis and discussion, rules the roost and it is vociferously asserted that Islamic thoughts and precepts are anachronistic and are found hopelessly wanting in the face of modern pressures pertaining to society and politics. Unfortunately, even the educated sections are in the grip of bewilderment as a result of this blitzkrieg against Islam, which has been triggered by both feelings of animosity and prejudice against Islam as well as unfamiliarity with and even ignorance of Islamic teachings.

An attempt has been made in this book to discuss relationship with non-Muslims in general and their rights in the Islamic State citing authoritative evidence and to elucidate Islamic teachings with regard to those topics which have been subjected to severe criticism. The approach is positive and objective and not polemical and controversial and it is hoped that Islam's viewpoint will be appreciated in a better manner and in a pleasant ambience and thus a clear image will emerge. As the subject is at once significant and topical in the present circumstances, this book has been welcomed with warmth and scholars have taken notice of it. This is entirely due to Allah's grace. Glory to Him! Some friends insist that an English version will be in the fitness of things. The matter is being pursued.

This book was published by *Idara-e-Tahqeeq wa Tasneef*, Aligarh, Uttar Pradesh twice. The credit for the third edition goes to *Markazi Maktaba-e-Islami Publishers*, New Delhi. After revision, this book is being published again by the same institution on a

grander scale. As usual, Brother Dr. Muhammad Raziul Islam Nadwi has lent his cooperation. May Allah the Exalted approve of these efforts and reward us in the hereafter.

Jalaluddin Umari
Sep 4. 2013

PREFACE
(First Edition)

The issue of human relationships is most demanding and sensitive in any society. These qualities of the issue get accentuated when people professing different ideas, views, beliefs and religions live together. Their life-styles, cultures, and social transactions have bewildering varieties. In conditions of this nature, possibilities for gross injustice, curtailment of rights and atrocious conduct multiply and ideological prejudices, personal and communal proclivities, and social factors loom large as roadblocks in the task of rendering justice and upholding rights. The elimination of such roadblocks should be the top priority of every civilized and noble society.

Human relationships form a triangle with morality and law. The goal of morality is to render these relationships endearing and pleasant. It is law's objective to ensure that these relationships are kept within permissible limits and are not allowed to either deviate or transgress. If morality and law pursue their respective roles, then society will taste peace, harmony, and freedom from tension and trauma. Otherwise, there will be jungle raj, rights will be trampled upon and the downtrodden will continue to weep and whimper under the oppression and high-handedness of the high and the mighty.

The earth has witnessed the blossoming of the flowers of love and affection as much as the autumnal harvest of slaughter, bloodshed, anarchy and rioting.

On this earth of God's, class warfare was seen; and scenes of unity and concord were witnessed too. Howling storms of torture, excesses, and exploitation blew; heartwarming scenes of justice, equity, sacrifice and priority were unfolded off and on before our eyes.

There is no denying the fact that fear of God and piety form the core of religion. It is fear of God that coerces man to abide by morality and law. Therefore, no one can deny the need for religion in the task of making human relationships better and pleasant and in the establishment of a just social order. Unfortunately, fear of God is no longer as dynamic in the present-day practices of most religions as it was in the past and, instead, lifeless rituals have usurped its place. Consequently, religions have lost the capacity to confront the complicated problems and their pressing demands which the fast-moving and fast-changing times have flung. The world is losing interest in and has become critical of religions on account of their rigidity and unreasonableness. As a result, the right to guide huge masses has been snatched from religions and now they are confined to the personal lives of the individuals. Religion is reduced to the level of a matter that is merely of personal interest and collective issues and dealings are kept beyond its reach. This approach to religion was set in motion by the West and, under its influence, the East followed suit.

As it is, world religions are not under discussion here. However, one cannot but say that there was no proper reason to extend the same treatment to Islam. Not only that. The treatment extended to Islam was rendered more severe owing to various reasons and factors. Islam was so misrepresented as to create the impression that it was totally unqualified to be the

foundation for a civilized society, and that life to it was death to the progress of human species, and that its history is fully marked by wickedness and cruelty. It has two aspects - one relates to the individual and the other, to the state.

It is alleged that Islam is segregation-centric and fosters the same tendency among its followers, and orders them to sever ties with the followers of other religions and votaries of anti-Islamic ideologies. A wide gulf is created between Muslims and those who differ. This allegation is baseless. Unambiguous teachings of Islam refute it. Islam does not prohibit humane and moral contacts with non-Muslims; at the same time, it does not approve that Muslims should be totally assimilated into any another group. And so, there are some restrictions. The propriety of the restrictions cannot be denied. Their significance per se for any principled and ideological community is well-established. It is not easy to question it.

As regards the Islamic State, this misconception persists that all privileges will be reserved for Muslims only and the non-Muslims will be deprived of even basic human rights even though the objectives of the Islamic state are promotion of good and eradication of evil (22:41) and establishment of justice (57:25). The Islamic State is duty-bound to uphold all legitimate and indispensable rights.

In addition to ignorance and lack of familiarity, several historical factors have contributed to this misconception. The psychological factor not to recognize the supremacy of Islam, the factor like the fear of Islam's dominance and rule, the stubborn and uncompromising feeling of intolerance towards the mere presence of Islam, prejudice and hostility

towards the Muslims are to be blamed. As a result, there is no earnest endeavour to comprehend the clear and explicit teachings of Islam; instead, conspiracies are hatched to distort them and project them in a horrifying manner, (or fan the flames of Islamophobia).

There is no doubt that, in the whole scenario, the shortcomings of Muslims have inflicted great damage. In modern times, Muslims have not presented Islam's viewpoint before non-Muslims with regard to various issues in as much a sober and scholarly manner as is required. One of the reasons is the infrequency of contacts between Muslims and non-Muslims. For a long time now, there has been a widening distance and a thickening curtain between the two communities. The cool and conducive atmosphere required for mutual understanding is deficient, nay absent. Consequently, misunderstandings rear their ugly heads and flourish.

To understand, fairly and squarely, Islam's viewpoint on this sensitive and significant issue, a few basic factors have to be kept in view.

1. A discussion on identifying the world religions which limit themselves to the personal and individual level and the world religions which encompass social and collective existence is rather irrelevant here. However, it is crystal clear that as far as Islam is concerned, it is a comprehensive and complete way of life (Deen) and has a well-integrated system of faith and practice. It has not only given a solid belief-system with regard to the universe and the place of man in it but also given human existence a new direction on its basis. It establishes and consolidates a relationship between

man and God through several forms of worship and service to God and obliges him to obey God's commandments relating to morality and law. Islam encompasses family, society, state, and relationships at the personal, communal and international levels. No sphere of activity lies outside its control. One can disagree with its totalitarian stance but it will not be in the fitness of things to demand that Islam should shrink and confine itself to addressing the problems of an individual's existence only because Islam opposes restricted religiosity in which the rights of God and Caesar are distinct and separate.

2. Islam is a world religion. It is the last message of God which delineates the way of success in this world and in the hereafter for the benefit of mankind. It addresses all men and all classes of people.

قُلْ يٰٓاَيُّهَا النَّاسُ اِنِّيْ رَسُوْلُ اللّٰهِ اِلَيْكُمْ جَمِيْعًا الَّذِيْ لَهٗ مُلْكُ السَّمٰوٰتِ وَالْاَرْضِ (الاعراف:۱۵۸)

"(Say, O Muhammad):" O People! I am Allah's Messenger to you all - of Him to whom belongs the dominion of the heavens and the earth." (7:158)

A religion (Deen) which addresses all people of the world and all their sections and which introduces itself before us, as a source of success and salvation for the whole world, cannot propagate hatred and hostility against any section. Otherwise, it will inhibit the universality of its address. There is no universal appeal in the ideologies which generate class struggle and exploit one at the expense of another. If one group is irresistibly drawn towards them, another group finds them repulsive.

3. Islam has rejected all forms of coercion to propagate its doctrines. In its view, every act of coercion is illegal and strictly forbidden. For propagation, the only avenue left open is the avenue of preaching and persuasion. Islam presents every assertion with evidence and grants unhindered freedom to people to accept or reject it. Its strategy is to spread its message with patience and steadfastness and to endure opposition and resistance with determination, courage, and hopefulness.

وَاصْبِرْ عَلَىٰ مَا يَقُولُونَ وَاهْجُرْهُمْ هَجْرًا جَمِيلًا ﴿١٠﴾ (المزمل)

"And bear patiently the vain things they utter, and gracefully forsake them," (73:10)

Islam expresses reiteratively that the way of propagation demands abundance of forgiveness and forbearance and one should hold on to them at any cost.

فَاصْفَحْ عَنْهُمْ وَقُلْ سَلَامٌ ۚ فَسَوْفَ يَعْلَمُونَ ﴿٨٩﴾ (الزخرف)

"Indulge them (O Prophet), and say to them: "Peace to you" For soon they shall come to know." (43:89)

فَاصْفَحِ الصَّفْحَ الْجَمِيلَ ﴿٨٥﴾ إِنَّ رَبَّكَ هُوَ الْخَلَّاقُ الْعَلِيمُ ﴿٨٦﴾ (الحجر)

"(O Muhammad), do graciously overlook them (despite their misdeeds). Your Lord is indeed the Creator (of all), the All-knowing." (15:85,86)

Islam claims that its followers have these virtues:

وَالْكَاظِمِينَ الْغَيْظَ وَالْعَافِينَ عَنِ النَّاسِ (آل عمران: ١٣٤)

"They restrain their anger and forgive others." (3:134)

It instructs that one should maintain a demeanour in conversation, missionary work and conduct that has

the potential to terminate the enmity of the deadliest enemy and to transform him into a friend. (41:34, 35)

After such clear instructions, can one still persist with the allegation that Islam does not put up with opponents, and speaks to them in a militant language and is only too eager to impose itself upon them?

4. Islam is an acceptance of Allah and His Messenger with a willing heart and a service to them in a spirit of joyous surrender. This willingness and joy can never be the outcome of coercion. Under imposition and coercion, tongues may express subscription to faith and Islam but, in truth, it will be merely a lip-service as hearts are not convinced. Hypocrisy is described in the Quran as a disease of the heart, falsehood, a slander, deception and fraud against Allah and His Messenger.

وَمِنَ النَّاسِ مَنْ يَّقُوْلُ اٰمَنَّا بِاللّٰهِ وَبِالْيَوْمِ الْاٰخِرِ وَمَا هُمْ بِمُؤْمِنِيْنَ ۘ﴿۸﴾ يُخٰدِعُوْنَ
اللّٰهَ وَالَّذِيْنَ اٰمَنُوْا ۚ وَمَا يَخْدَعُوْنَ اِلَّآ اَنْفُسَهُمْ وَمَا يَشْعُرُوْنَ ۝﴿۹﴾ فِيْ قُلُوْبِهِمْ مَّرَضٌ ۙ
فَزَادَهُمُ اللّٰهُ مَرَضًا ۚ وَلَهُمْ عَذَابٌ اَلِيْمٌ ۢ بِمَا كَانُوْا يَكْذِبُوْنَ ۝﴿۱۰﴾ (البقرة)

"There are some who say, "We believe in Allah and in the Last Day," while in fact they do not believe. They are trying to deceive Allah and those who believe, but they do not realize that in truth they are only deceiving themselves. There is a disease in their hearts and Allah has intensified this disease. A painful chastisement awaits them for their lying." *(2:8-10)*

The Quran says that the fate of the hypocrites will not differ from that of unbelievers.

اِنَّ اللّٰهَ جَامِعُ الْمُنٰفِقِيْنَ وَالْكٰفِرِيْنَ فِيْ جَهَنَّمَ جَمِيْعًا ۝﴿۱۴۰﴾ (النساء)

"Know well, Allah will gather the hypocrites and the unbelievers in Hell-all together." *(4:140)*

In addition, it is stated:

إِنَّ الْمُنٰفِقِيْنَ فِي الدَّرْكِ الْأَسْفَلِ مِنَ النَّارِ (النساء:١٤٥)

"Surely, the hypocrites shall be in the lowest depth of the Fire". *(4:145)*

After the severest criticism that the Quran has directed against the hypocrites, after what the Quran has said about their mean mentality, selfishness, lethargy, nay gross misconduct, and after the Quran's exposure of their conspiracies and its urgent calls to Muslims to remain vigilant against them, can it be expected of Islam to permit the swelling of the ranks of the hypocrites among its followers? Will Islam allow those ways and means which are conducive to the exponential growth of hypocrisy? Even if Islam had connived at compulsion in conversion, it would not have compelled people to accept faith and Islam, because that would have opened the floodgates of hypocrisy. No belief-system and no ideology of the world could afford to accommodate subversive hypocrisy. In such circumstances, will Islam alone be suicidal enough to provide opportunities for hypocrisy to wreak havoc from within?

As soon as 'Islamic State' is mentioned, there arises a question about the status of non-Muslims in it, about their rights, about their treatment, etc. In this connection, the following observations have a relevance of their own

1. Islamic state is based on God's sovereignty and not that of man. All power belongs to God and not to any individual, or a group or a cabal. The constitution under which it functions comprises Allah's Book and Prophet's Sunnah. When situations change and demand new laws, they will be made on condition that they remain in sync with

the two basic sources, and no deviation will be countenanced.

2. The reins of government will naturally remain in the hands of those people who believe in the Quran and the Sunnah and look upon them as the true foundations of the State. It goes without saying that people without faith in them cannot be burdened with the responsibility of running such a state as they will not have the required sense of commitment. But they will be sheltered by God and His Messenger in that state; their basic rights are guaranteed as per Islamic Law. No individual or group will be allowed to usurp them. Their services, however, the State can make use of in the administrative matters.
3. This is the legal aspect of the status and the obligations of the non-Muslims in the Islamic State. In living conditions, however, it is not law but morality which enjoys greater significance. Islam enjoins truthfulness and honesty instead of lies, scheming and cheating in the area of human relationships. It prefers humility and humbleness to arrogance and pride; gentleness and compassion to harshness and extremism; patience and restraint to unbridled anger. Islam persuades its followers to forgive and spare and not to exceed the limits in retaliation, to return good for evil, to eschew evil, violence and destruction, and to remain upright and just under all circumstances. These instructions are quite general and not applicable to Muslims only. In this matter no distinction is made between Muslims and others. It is hoped that a Muslim will uphold these values in his relationship with the followers of any religion. Where lofty moral ideals

have an upper hand, chances of cruelty and oppression are reduced to the minimum and if someone ever takes a wrong step, law will effectively intervene and discharge its duty.

4. The Islamic State and Jihad are mentioned simultaneously as though creating conditions of confrontation between Muslims and non-Muslims and setting in motion a process of slaughter and bloodshed are the primary goal and top priority of the State. As every state in the world may get involved in a war, the Islamic State may go through such a phase too. The whole situation should be assessed in the light of Islam's extensive and universal precepts. Jihad is not that kind of warfare in which the desire to kill, subjugate people, and govern them is fulfilled. Instead, it is that kind of warfare whose ennobling motives are: lofty moral principles, law founded on justice, sincere impulse of propagation, and a yearning to ameliorate human predicament. It is up to others to gauge how morally distinct Jihad is from other battles and what pleasant consequences it ushers in.

The relationship with non-Muslims and their rights are dealt with in the following pages. There is a variety of relationships including the family, social and economic ties. An attempt has been made to elucidate the viewpoint of Shariah with regard to some controversial matters. This elucidation throws further light on the relationships. The individual and the state have to deal with the rights and the relationships even though the individual aspect is predominant in the relationships whereas the rights are more concerned with the state. The status and the rights of non-Muslims are covered in the discussion on the state

which also contains details regarding Jihad and its rules and regulations. Islam and international relationships have also been discussed. The background of the rules governing the cessation of contacts with non-Muslims is highlighted in the concluding pages.

The primary sources for this book are the Quran and Hadith. The exegetic efforts of the authoritative scholars pertaining to the sources have been utilised. Some problems relating to jurisprudence (fiqh) have been discussed and the views of the masters in the field have been elaborated. Some are of the opinion that, in such discussions, the writer should give only that viewpoint which he prefers and deems correct because details may create confusion.

That opinion was practical and easy. But experts who are highly conversant with the huge treasure of jurisprudence are not convinced. They keep in sight other viewpoints also. They may think that opposing viewpoints have been ignored on account of personal inclinations. That is why, it was felt necessary to make a comparison of different viewpoints and then prefer a viewpoint. The present era is an era of comparative studies; modern research theses and encyclopedias are an example.

It may be contended that some non-Muslim readers may feel bewildered on coming to know of the views of some scholars of Muslim jurisprudence and so discretion demands that those views should be excised from the book. This contention does not hold much water because comparative study of religions is gaining popularity. Both Muslim and non-Muslim scholars are getting acquainted with the literature pertaining to Islam and its jurisprudence, and they

would like very much to know which viewpoint is authentic in the plethora of various viewpoints of jurisprudence. Therefore, to help the non-Muslim scholars, a safe and proper method will be to analyse opinions of jurisprudence on issues under discussion and indicate which opinion is better and more suitable in the present circumstances and why preference should be given to it. This is what is exactly being done in this book. However, in this endeavour, no opinion which is without substance and without any support of the scholars of the past has been upheld.

In the area of jurisprudence, views may be uncompromising, lenient, negotiable, accommodating and non-negotiable. Some views appear strict and rigid, for example, on the issue of trust deficit and employment of non-Muslims in the state administration or their services in other matters. Those views should be seen in the context of conditions prevailing in those times. Otherwise they will be vulnerable to hostile criticism.

In the first phase or initial centuries of Islamic history, and in countries conquered or where missionary efforts were successful, the majority of the indigenous population embraced Islam. Such countries included Hejaz, Egypt, Iraq, Syria and some lands in Asia and Africa. In them non-Muslims continued to be there but they formed a small minority. In those countries and under conditions prevailing then, the participation of non-Muslims in government institutions was not prominent. And so, some scholars of jurisprudence held the view that services of non-Muslims were not at all required in administration and defence. The implication is that those scholars perceived only a state in which Muslims were self-

sufficient in home and foreign affairs and there was no need to depend on others. Their perception cannot be extended to countries in which Muslims held the reins of government in spite of being in a minority and their subjects outnumbered them overwhelmingly. In such a state of affairs, the non-Muslim majority cannot be kept away from the affairs of governance as it would be impractical. In that case, the opinion of jurisprudence will obviously be different.

In recent times, plural societies are emerging owing to various social and political factors and efforts are afoot to secure participation of the minorities in state administration, and to not isolate them but to take advantage of their skills and talents.

While discussing the question of trusting or not trusting non-Muslims in matters of import, one has to take into account the whole situation of the world then. Generally and comparatively speaking, during the initial era of Islamic history, Muslims were religiously and morally superior as they had fear of God, made unimpeachable transactions and were trustworthy and so were trusted. In sharp contrast, in the surrounding world, there was moral depravity; individuals and communities had tainted and impaired their trustworthiness; values like moral uprightness, honesty and reliability, fulfilment of promises were devoid of oxygen. In such circumstances, to what extent could Muslims be called upon to put trust in others in matters affecting themselves? Some treated the question on the individual level and concluded that there are individuals and individuals, some good, some bad, and one cannot make sweeping generalisations. Some viewed the issue from the community's angle and formed a general view.

Now the situation is changed beyond recognition. Muslims' state of piety is deplorable. Their moral superiority is a thing of the past. In some respects now, their standard of morality does not compare well with others. Their trustworthiness has taken such a beating that others are trusted more than Muslims. In these circumstances, some views of jurisprudence held in the past should be revisited.

While non-Muslims and their rights are being discussed, terms like Darul Islam, Darul Harb and Darul Aman are bandied about. These terms do not find a place in the Quran and Hadith; it is the scholars of jurisprudence who coined them to distinguish different countries from the Islamic point of view. According to them, Darul Islam is that country where Islamic edicts are implemented, and Muslims live safely and securely and living as Muslims does not pose any threat to them. Darul Harb is that country where anti-Islamic forces are at the helm of affairs and the writ of atheism and polytheism runs large. If there is a treaty of peace between these countries, then it will be described as Darul Aman. Different sets of rules apply to these countries. At present no country has laid a claim to being a Darul Islam and to meeting the demands of such a claim and has described any other country as a Darul Harb and declared a war upon it. Most of the countries of the world are tied together through international treaties. These new conditions demand a revaluation of such terms.

It is the obligation of Muslim countries to protect the fundamental rights of non-Muslims as per the laws of Shariah. Within their territories, non-Muslims should have freedom to practise their religions, opportunities to progress must be available in plenty,

and any kind of injustice and transgression against them should be legally and effectively forestalled.

In countries where Muslims form a minority, there are two kinds of living conditions. In undemocratic countries, they are deprived of fundamental rights; preserving their faith and religion is an extremely difficult task; and with their backs to the wall, they are struggling to survive. However, in democratic countries, fundamental rights are available to a large extent; life, property and honour are preserved; freedom to believe and worship is granted; they can freely worship and fast, pay Zakah systematically, are permitted to go on pilgrimage to Makkah, construct mosques and fulfil the purpose of their existence, permission to celebrate festivals and congregate on Fridays is given, Islamic Personal Laws pertaining to marriage, divorce, inheritance, Waqf, gifts, etc. are implemented, and are given rights to establish, run and maintain institutions of secular and religious education. In a country such as the Republic of India, according to the Constitution, equal rights are given and equal participation in governance is available. A matter of great satisfaction is that minorities are permitted to profess, practise and propagate their religions. And so they cannot abandon countries which provide such facilities. In the practice of religion, Muslims should take advantage of the opportunities available for missionary work. It is obvious that this scenario is not applicable to Darul Harb or Darul Islam. No democratic country can be labelled in either way. The issue of the rights of non-Muslims in Darul Islam is not relevant here because the Constitution guarantees equal rights to all. The nature of relationship will not be the same here as it will be in

Darul Harb. It will be rather more appropriate to describe a democratic country as a golden realm where God's message can be disseminated. A Muslim's status, as defined by the Constitution, is that of a peace-loving and free citizen and this status is no different from that of other citizens. This status will be the basis for inter-citizen relationship. It is from this vantage point that all contacts can be regulated and contacts with non-Muslims strengthened.

I am grateful to dear brother, Dr. Muhammad Raziul Islam Nadwi who bestowed undivided attention on the task of proof-reading of this book, prepared a list of its contents and sources. The index, it is hoped, will be of immense relevance to this book and to other scholarly treatises. May Allah give best rewards to him! I have scrutinized the whole work. Nevertheless, errors and lapses might persist. If they are brought to notice, it will be an act of service to the cause of knowledge, and, God willing, such errors will be rectified in the next edition.

I pray to Allah that the following pages may assist the readers in comprehending His religion and His servants may derive maximum benefit from them. May these pages be approved by Him through His grace and may He forgive the inadvertent errors. May He always protect us. Verily, He is the One who listens, the One near at hand, the One who responds.

Jalaluddin Umari
2 August 1998.

Chapter - I

Relations with non-Muslims and Relevant regulations

Relations with non-Muslims

Amid all the efforts to distort the image of Islam, the most striking plank of Islam's detractors is that Islam is opposed to any human relationship with non-Muslims. Islam is alleged to bean isolationist and exclusivist religion, that it asks Muslims to lead insulated lives, which, in turn, breed separatism. For them, Islam is so averse to the idea of any interaction between Muslims and non-Muslims that it disapproves of even common-day courtesies with the latter. Moreover, such detractors argue that the Islamic code of morality is confined only to Muslims. They argue that whilst those who embrace Islam are, no doubt, instructed in morality, it adopts a totally different attitude towards those outside its fold. This face of Islam is horrible in that it is one whereby Islam is seen as urging only hostility and hatred for non-Muslims. It is one that views the Islamic mindset as opposed, in itself, to its opponents and clashes with the latter on every front. Such a contrived image of Islam, however, bears no correspondence with the Islamic faith and its practices. Furthermore, those entertaining such a negative image of Islam are either ignorant or seek to misguide people.

Islam, no doubt, prescribes a stringent moral code for Muslims, declares all Muslims as brethren in faith, lays down their mutual rights and obligations and

infuses among them love and solidarity.[1] Islam also forges them into a single community, subscribing to a particular way of life. Furthermore, Islam invests Muslims with high ideals, particularly championing the oneness of the One True God. Muslims are also obliged to impart virtues to mankind, which bring about their salvation in the Hereafter, and which promote good and forbid evil. In the face of this reality, it is inconceivable that this noble faith could foster hatred against non-Muslims. It is far from true that Islam pits Muslims as the enemy to all non-Muslims and obstructs any meaningful dialogue between the two.

Islamic teachings relating to non-Muslims are spelled out in the following chapters. This account refutes the misconception that Islam represents a kind of barrier between Muslims and non-Muslims, ruling out their interaction or friendly ties. On the contrary, Islam acknowledges the importance of their social and economic relations.[2] It places a premium on ties of kinship, if these exist between Muslims and non-Muslims. One, thus, realizes that in Islam while abiding by its commands Muslims may have cordial relations with others. Rather, Islam asks them to do so for it is not contrary to its spirit. Peaceful coexistence, therefore, is the very essence of Islamic teachings.

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[1] A detailed discussion of this topic appears in my Urdu article, "Ahl-i-Iman ke Bahimi Taluqat" (Mutual Relations among Believers), *Zindagi Nau*, New Delhi, January 1989.

[2] For details see my book, *Islam and Service to Mankind,* Published by MMI Publishers, New Delhi.

Family Relations
(Special emphasis on Good Treatment)

Allah the Most Compassionate, Most Merciful

In the Islamic concept of God, much emphasis is placed on Allah being the Most Compassionate and Most Merciful. This comes to the fore on studying the opening chapter of the Qur'an – Surah *al-Fatihah*. Allah's mercy envelopes every entity in the universe. His compassion lets every creature flourish and survive. Signs of His mercy are manifest everywhere in the universe. Man can observe these all the time both in the universeand in and around himself.

Man should embody mercy and sympathy in his behaviour

The Islamic ideal of man is that he should be an embodiment of mercy, love, cooperation and empathy. Mercy should be the striking feature of his conduct. He should not nurture any harshness or rancour. His attitude towards fellow human beings should be the same as he expects from his Lord: for he enjoys the bounties of His Lord notwithstanding all his weaknesses. He should not swerve from the path of justice and should shun any injustice. His conduct should be marked by tolerance. He should not be swayed by emotions, especially anger. Patience should be his mainstay. All this helps promote love and mercy in society:

وَتَوَاصَوْا بِالصَّبْرِ وَتَوَاصَوْا بِالْمَرْحَمَةِ ﴿١٧﴾ (البلد:١٧)

"Muslims exhort one another to persevere and they urge mercy on everyone", (al-Balad 90:17).

The importance of kinship and directives for maintaining such ties

The first step towards stable relationships is the maintenance of ties of kinship, for this covers a wide range of blood relationships. Islam accords much importance to these ties. Islam teaches that man should have love and respect for biological relationships. Man should have excellent familial ties. Everyone's rights should be acknowledged and no injustice should be done to anyone. If one is kind to one's near and dear ones, one is expected to behave likewise in the broader society, which spells good for everyone. By the same token, if one is unkind to one's close relatives, one can only be more unjust towards others. Without kinship, society cannot be blessed with love, gentleness and justice. In Islam, one's kin are the most deserving of one's help, cooperation and sympathy. Pious servants of Allah never disregard ties of kinship.

الَّذِينَ يُوفُونَ بِعَهْدِ اللَّهِ وَلَا يَنقُضُونَ الْمِيثَاقَ ﴿٢٠﴾ وَالَّذِينَ يَصِلُونَ مَا أَمَرَ اللَّهُ بِهِ أَن يُوصَلَ وَيَخْشَوْنَ رَبَّهُمْ وَيَخَافُونَ سُوءَ الْحِسَابِ ﴿٢١﴾ (الرعد)

Those who join together those things which Allah has commanded to be joined, hold their Lord in awe, and fear the terrible reckoning. (al-Ra'd 13:20-21)

In contrast, those given to wordliness behave differently. Their conduct is devoid of virtue and they cause only discord and corruption on earth:

وَالَّذِينَ يَنقُضُونَ عَهْدَ اللَّهِ مِن بَعْدِ مِيثَاقِهِ وَيَقْطَعُونَ مَا أَمَرَ اللَّهُ بِهِ أَن يُوصَلَ وَيُفْسِدُونَ فِي الْأَرْضِ أُولَٰئِكَ لَهُمُ اللَّعْنَةُ وَلَهُمْ سُوءُ الدَّارِ ﴿٢٥﴾ (الرعد)

But those who break the covenant of Allah, after having given their pledge, and cut asunder those things which Allah has commanded to be joined, and work mischief in the land, -on them is the curse. For them is the terrible Hell. *(al-Ra'd13:25)*

Islam establishes society on the broad principle of justice, granting kin their due, and eschewing obscenity, evil and injustice. Without these values, a decent society cannot come into being:

إِنَّ اللَّهَ يَأْمُرُ بِالْعَدْلِ وَالْإِحْسَانِ وَإِيتَآئِ ذِي الْقُرْبَىٰ وَيَنْهَىٰ عَنِ الْفَحْشَآءِ وَالْمُنكَرِ وَالْبَغْيِ يَعِظُكُمْ لَعَلَّكُمْ تَذَكَّرُونَ ﴿٩٠﴾ (النحل)

Allah commands justice, the doing of good and liberality to kith and kin, and He forbids all shameful deeds, and injustice and rebellion. He instructs you that you may receive admonition. *(al-Nahl 16:90)*

Treating one's non-Muslim parents well

Parents are central to kinship ties. The Qur'an therefore urges good treatment of one's parents, even if they are non-Muslims. At times, one's non-Muslim parents may turn hostile as was the case in the early history of Islam, It was apprehended that Muslim youth may reciprocate in kind and might behave intransigently towards them. They were instructed that faith is of paramount importance. If parents insist on clinging to unbelief and polytheism, one should not listen to them. However, notwithstanding their excesses, parents should be granted their due rights. In other words, one should not neglect them. The Qur'anic directive is as follows:

وَوَصَّيْنَا الْإِنْسَانَ بِوَالِدَيْهِ حَمَلَتْهُ أُمُّهُ وَهْنًا عَلَى وَهْنٍ وَّفِصٰلُهُ فِيْ عَامَيْنِ اَنِ اشْكُرْ لِيْ وَلِوَالِدَيْكَ ۭ اِلَيَّ الْمَصِيْرُ ۝ وَاِنْ جَاهَدٰكَ عَلٰٓى اَنْ تُشْرِكَ بِيْ مَا لَيْسَ لَكَ بِهٖ عِلْمٌ فَلَا تُطِعْهُمَا وَصَاحِبْهُمَا فِي الدُّنْيَا مَعْرُوْفًا ۔ (لقمان:۱۴-۱۵)

And We have enjoined on man to be good to his parents. In travail upon travail did his mother bear him, and in two years was his weaning. Show gratitude to Me and to your parents. To Me is your return. But things of which you have no knowledge, do not obey them. Yet bear them company in this life with justice.

(Luqman31: 14-15)

The Qur'anic massage is categorical: even non-Muslim parents are to be treated well. No disrespect may be shown to them in view of their unbelief or polytheism. According to Allama Abu Bakr Jassas, the clause 'But if the endeavour to make you associate with Me that of which you have no knowledge...' has made it clear that the injunction to treat parents kindly pertains to both Muslim as well as non-Muslim parents. This is reinforced in another directive 'Bear company with them in a customary and nice way.' While referring to the juristic aspect of the above, the Allama points out that if a father kills any of his children, he is not liable to *qisas* (the Shariah term for retribution). Likewise, if the former slanders the latter, he is not subject to the Shariah penalty. Nor is he to be imprisoned on account of the non-payment of any debt incurred by his children, If parents are destitute, their children, however, are obliged to bear their living expenses. All these belong to the realm of custom and one should not disregard such good customs.[1]

[1]Jassas, *Ahkam al-Qur'an*, 3,433, *Ahadith* also bear this out.

Hanafi jurisprudence requires one to provide maintenance to one's parents, be they Muslim or otherwise. This is inferred from the above Qur'anic directive instructing us about the good treatment to parents. It is contended that itis not an act of virtue that one may flourish, enjoying Allah's bounties, while one abandons one's parents such that they starve to death.[1] In his commentary on the above Qur'anic directive, Allama Qurtubi states:

والأية دليل على صلة الأبوين الكافرين بما امكن من المال ان كانا فقيرين، والانة القول والدعاء الى الأسلام برفق۔

"This verse is categorical on the point that as far as possible, financial assistance be provided to one's non-Muslim parents, if they are indigent. One should speak well with them and invite them gently to Islam".[2]

The Prophet (pbuh) too, exhorts that one treats one's non-Muslim parents well. This is illustrated by the famous incident involving Asma, daughter of Abu Bakr. She related that after the Hudaibiya Treaty, when peace was restored, her polytheistic mother called on her.[3] Asma sought the Prophet's ruling about whether or not she could help her mother. She was instructed by him to maintain ties of kinship with her.[4]

Another report states that Asma's mother had brought her presents of cheese and butter. Asma, however, refused to let her into her house and declined to take her gifts. When she referred this matter to the Prophet (pbuh), he advised her to accept her presents

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[1] *Hidaya* 2, 425, 426, see also *"Islam and Service to Mankind"* Published by MMI Publishers, New Delhi

[2] Qurtubi, *Ahkam al-Qur'an*, 14, 65

[3] Her name was Qatila. Abu Bakr had divorced her during the Jahiliyya period. *Fath al-Bari*, 5,233

[4] Bukhari, *Kitab al-Hiba*; Muslim, *Kitab al-Zakah*

and to host her mother in her home. [1] For Imam Nawawi,

فيه جواز صلة القريب المشرك۔

this underscores kindness, towards one's non-Muslim kith and kin.[2]

Allama Khattabi observes:

فيه أن الرحم الكافرة توصل من المال ونحوه كما توصل المسلمة، ويستنبط منه وجوب نفقة الأب الكافر والأم الكافرة و ان كان الولد مسلما۔

This hadith clarifies that monetary help may be provided to one's non-Muslim kin in the same way as one helps one's Muslim relatives. Muslim children are obliged, by the same token, to bear the living expenses of their unbelieving parents.[3]

Social relations with non-Mulsim relatives

While spelling out one's obligations towards one's kith and kin, the Qur'an stresses that they be treated well. *Ahadith*emphasize the same directive. This applies to both Muslim and non-Muslim relatives. There is some distinction between them on certain legal issues. However, in showing kindness to them, no discrimination is to be made between the two. As to the legal distinction, the Qur'an lays down that one's blood relatives alone can inherit the other, to the exclusion of all others. The Qur'an has allotted shares to each blood relative:

وَلِكُلٍّ جَعَلْنَا مَوَالِيَ مِمَّا تَرَكَ الْوَالِدَانِ وَالْأَقْرَبُونَ (النساء:٣٣)

"To everyone, We have appointed sharers and heirs to property left by parents and relatives...." (al-Nisa 4:33)

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[1] *Nayl al-Awtar* 6,106-107 with reference to Musnad Ahmad

[2] Nawawi, *Sharh Muslim* 3,89

[3] Ibn Hajar: *Fath al-Bari* 5,234

Islamic law of inheritance, nonetheless, takes one's faith into consideration. Accordingly, Muslims and non-Muslim cannot be sharers and heirs to each other. A Muslim's inheritance is to be shared only by Muslim relatives, not by non-Muslim ones. By the same token, a non-Muslim's heirs can only be non-Muslim relatives, not the Muslim ones. The Prophet (pbuh) made this amply clear in his assertion: Muslims and unbelievers cannot inherit each other.[1]

The Islamic law of inheritance follows a particular order and accordingly everyone receives his or her share:

But kindred by blood have prior rights against each other in the Book of Allah.

وَأُولُوا الْأَرْحَامِ بَعْضُهُمْ أَوْلَىٰ بِبَعْضٍ فِي كِتَابِ اللَّهِ ۗ إِنَّ اللَّهَ بِكُلِّ شَيْءٍ عَلِيمٌ ﴿٧٥﴾ (الانفال)

Surely Allah is well-acquainted with all things.
(al-Anfal 8:75)

Leaving aside inheritance, one may and should offer help and support to non-relatives. If need arises, one may earmark something for them in one's will:

وَأُولُوا الْأَرْحَامِ بَعْضُهُمْ أَوْلَىٰ بِبَعْضٍ فِي كِتَابِ اللَّهِ مِنَ الْمُؤْمِنِينَ وَالْمُهَاجِرِينَ إِلَّا أَنْ تَفْعَلُوا إِلَىٰ أَوْلِيَائِكُمْ مَعْرُوفًا ۚ كَانَ ذَٰلِكَ فِي الْكِتَابِ مَسْطُورًا ﴿٦﴾ (الاحزاب)

Blood-relations among each other have closer personal ties in the decree of Allah than (the brotherhood) of believers and Muhajirs. Nevertheless, do what is just to your closest friends. Such is the writing in the decree of Allah. *(al-Ahzab 33:6)*

As to the question of whether one may offer help, including allocating a portion in one's will to one's

[1] Bukhari, *Kitab al-Faraid*; Muslim, *Kitab al-Faraid*. For further details see Jassas, *Ahkam al-Quran* 2,122-123; Nawwai, *Sharh Muslim*, 4, 52-53; Shawkani, *Nayl al-Awtar* 6, 192-194..

non-Muslim relatives, classical jurists affirm this, declaring it as perfectly valid. Their inference is based on the above passage.

According to Abdullah ibn Umar, the Prophet's wife, Safia, made her will in favour of a Jewish relative.[1] 'Ikrima provides its details: Safia sold her house to Muawiya for one hundred thousand *dirhams*. She asked one of her Jewish relatives to embrace Islam, which would render him her heir. Some reports suggest that her will was for thirty thousand *dirhams*.[2]

Imam Sha'bi clarifies that a Muslim may make his will in favour of a Christian.[3] Ibn Jurayj says that he had once sought Ata ibn Abi Rabah's clarification about a verse in Surah *al-Ahzab*, which directs that help be rendered to one's *awliya*. To this he replied that generous help is the Qur'an's intended meaning. When he probed further whether it was similar to the help a Muslim provides to his unbelieving relatives, he affirmed this and added that the same holds true for will.[4]Qatada's elucidation of the same is:

الاّ ان يكون لک ذو قرابة ليس على دينک فتوصى له بالشيء، هو وليک فى النسب وليس وليک فى الدين-

It is permissible for you to make a will for a relative who professes another faith.
In terms of kinship, he is your wali, though not a wali (guardian) in the religious sense.

Hasan Basri's stance also endorses the above.[5] According to Muahmmad Ibn Hanfiya, the verse under

[1] Darimi, *Kitab al-Wasaya* 2,517. Another report speaks of two Jewish relatives. See Abu Ubayd, *Kitab al-Amwal*, p.543
[2] Abd al-Razzaq, *al-Musannaf* 6, 33
[3] Ibid.
[4] Ibid. 6, 33-34
[5] Ibid.

discussion allows for a Muslim to make his will in favour of a Jewish or Christian relative.[1] Ties of kinship might at times demand lending someone a loan and, if he is unable to repay, waiving it as well. Once Abdullah ibn Marwan asked Mujahid whether he could waive a loan which he had lent to one of his polytheistic relatives. The latter replied in the affirmative, adding that he should maintain ties of kinship with him.[2]

Islam endorses that social relations be maintained with non-Muslims and that they be treated with love and sympathy. Giving them presents is one means of achieving this end. This is illustrated by Umar's conduct. The Prophet (pbuh) had sent him a present of a silken suit. The latter enquired as to how he could wear it in that men are forbidden from using silk. The Prophet told Umar that he had not given it to him so that he may wear it, but to employ it for some other use. Accordingly, he gave it as a present to one of his polytheistic brothers.[3] Taking his cue from the above, Imam Nawawi remarks:

و فی هٰذا کله دلیل لجواز صلة الأقارب الکفار والأحسان الیهم و جواز الهدیة الی الکفار۔

"All this establishes that it is all right to be kind to one's non-Muslim relatives. It is also permissible to give them presents."[4]

Imam Ibne Qayyim (Rah.) has discussed this topic in great detail. He has discussed whether it is incumbent upon a prosperous Muslim to ensure the subsistence of a poor non-Muslim relative and what

[1] Qurtubi, *Ahkam al-Qur'an* 14, 126
[2] Abu Ubayd, *Kitab al-Amwal*, 9, 543
[3] Bukhari, *Kitab al-Hiba*; Muslim, *Kitab al-Libas*.
[4] Nawawi, *Sharh Muslim* 14, 39

difference is there between this financial help and inheritance, and says that expenditure on relatives in spite of religious difference is sanctioned by a verse in the Qur'an which deals with the polytheistic parents, وَصَاحِبْهُمَا فِي الدُّنْيَا مَعْرُوفاً *"And yet treat them well in this world."*(31:15) It is neither a supreme act of generosity nor is it a fair act of morality that parents and relatives are in a state of starvation and extreme need and prosperous children should leave them in the lurch. Allah has ordered that family ties should be strengthened and not severed. A traditionhas this to say لَا يَدْخُلُ الْجَنَّةَ قَاطِعُ رَحِمٍ "One who severs family ties will not enter paradise", (Muslim). It is against family rights that a Muslim inspite of enjoying status and affluence should abstain from spending on those non-Muslim relatives who are hungry, thirsty and semi-naked. He adds,

وصلة الرحم واجبة وان كانت كافرة، فله دينه وللواصل دينه۔

"The rights of the family are compulsory, even to that relative who happens to be a disbeliever. To him, his religion; to the donor, his religion."[1]

Some people link this act of spending with inheritance and conclude that since a Kafir cannot be an inheritor of a Muslim and so feeding a non-Muslim should not be compulsory. Allama Ibne Qayyim asserts that such linking is inappropriate. Help, support and cooperation form the basis of inheritances whereas expenditure on subsistence is related to the rights of family and kinship. The worldly rights of kinship do not get forfeited by the absence of faith (in Allah).

Allah states:

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[1] Ibne Qayyim, Ahkam ahl al- Dhimma, vol.2, pp.791-793

وَاعْبُدُوا اللّٰهَ وَلَا تُشْرِكُوا بِهٖ شَيْـًٔا وَّبِالْوَالِدَيْنِ اِحْسَانًا وَّبِذِى الْقُرْبٰى وَالْيَتٰمٰى وَالْمَسٰكِيْنِ وَالْجَارِ ذِى الْقُرْبٰى وَالْجَارِ الْجُنُبِ وَالصَّاحِبِ بِالْجَنْۢبِ وَابْنِ السَّبِيْلِ ۙ وَمَا مَلَكَتْ اَيْمَانُكُمْ ۭ (النساء:٣٦)

"Worship and serve Allah and ascribe no partner to Him. Do good to your parents, to near of kin,to orphans and to the needy and to the neighbour, who is of kin and to the neighbour who is a stranger and to the companion by your side, and to the way-farer, and to those whom your right hands possess." (4:36)

The rights of the persons mentioned in this verse and the order of fair treatment to them are non-negotiable, even if they happen to be disbelivers. Relatives can not be excluded from the list. To render help when it is the need of the hour is the prominent aspect of Ihsan or magnanimity.

Islam instructs Muslims to honour their blood ties with non-Muslims, to share their joys and sorrows, to have cordial relations and to treat them well. However, as already stated, if they try to drive Muslims away from Islam, ask them to disobey and revolt against Allah, then they should not be followed. Likewise, if they oppose and obstruct Islam, they should be bluntly disobeyed. Nonetheless, obligations due to them should be fulfilled and their rights should not be denied.

Good behaviour towards fellow human beings

There is no denying the fact that the Qur'an explicitly asks Muslims to treat their non-Muslim parents well. The Shariah extends the same directive for non-Muslim relatives. Besides, some general guidelines over those non-Muslims with whom Muslims are not related by blood. Certain guidelines have been laid down addressing Muslims, but it should be clear that these moral directives apply in the same degree to non-Muslims as well. Muslims are not allowed to follow any double standard in their interaction with non-Muslims. The Shariah refutes misconceptions on this count. Let us, therefore, elucidate these points.

The Qur'anic directive is that kindness be shown to parents, kindred, orphans, the poor, neighbours, travellers and slaves. It condemns any bad treatment towards them.[1] This directive is applicable to every person in showing kindness, non-Muslims are not to be excluded. Dealing with them in an unkind manner, is un-Islamic.

The Qur'anic directive covers prisoners as well. Thus it applies to both individuals and states. Nowithstanding military and political compulsions,

[1] For details see my book, *Islam and Service to Mankind* Published by MMI Publishers, New Delhi.

Muslims have always treated prisoners of war decently and gently.

Good treatment of non-Muslim prisoners

Those who disregard God and the Hereafter feel no qualms in being unjust to fellow human beings. They oppress the resourceless, orphans and the poor. The Qur'an presses this point home at various occasions.[1] In contrast, pious servants of Allah behave thus:

وَيُطْعِمُونَ الطَّعَامَ عَلَىٰ حُبِّهِ مِسْكِينًا وَيَتِيمًا وَأَسِيرًا ﴿٨﴾ إِنَّمَا نُطْعِمُكُمْ لِوَجْهِ اللَّهِ لَا نُرِيدُ مِنكُمْ جَزَاءً وَلَا شُكُورًا ﴿٩﴾ إِنَّا نَخَافُ مِن رَّبِّنَا يَوْمًا عَبُوسًا قَمْطَرِيرًا ﴿١٠﴾ (الدهر)

They feed, for the love of Allah, the indigent, the orphan and the captive, saying: "We feed you for the sake of Allah alone. No reward do we desire from you, nor thanks. We only fear the Day of distressful wrath from the side of our Lord. *(76:8-10)*

Feeding the poor is symbolic of pious conduct. It reveals the giver's outlook on life. Such people do not neglect the weak and the poor. Rather, they feed them, help them as much as possible and meet their needs while exhausting their own resources.

Prisoners are mentioned alongside the orphan and the destitute in the above passage. Orphans and destitute suffer from a sense of deprivation, no matter to which class or creed they belong. This arouses a sense of empathy towards them. Muslims consider them deserving of help, even if they are unable to

[1] Instances in points are verses 17-19 of *al-Fajr*; 11-17 of *al-Balad* and 44 of *al-Mudaththir*. See also my article, in Urdu, *"Kamzor Islam ke Saye mein"* (the weak under the shade of Islam), *Zindagi*, Rampur, August-December 1978.

extend them any help personally. Only a callous, hard-hearted person can be unkind towards them. Prisoners, however, belong to another category. Generally speaking, no sympathy is known to those convicted of crimes against the state, though one may have sympathy for the orphan or the poor. Prisoners have been treated badly everywhere, throughout the ages. Many have been tortured and made to die in dark cells, let out only handcuffed and fettered. Even their basic needs were not met, compelling, them to beg for their lives. It was against this backdrop that Islam made Muslims realize that prisoners are human beings too. In this respect, then, it did not place much emphasis on their crime.

The Qur'anic passage quoted above is generally held to be Madinite. However, Abdullah Ibn Abbas, Muqatil, Kalbi and Yahya Ibn Salam regard it as Makkan. The latter view is supported by the contents of Surah *al-Insan* in which it appears. The rich Makkans oppressed orphans and the poor. Given this, their exploitation of prisoners was not surprising. Islam condemned their attitude and praised those pious people who showed love and mercy towards prisoners who were indeed subject to all sorts of excesses. It is clear from the context that most of these orphans, destitute and prisoners were non-Muslims. Yet the resourceless Muslims of Makkah displayed sympathy and love for them out of their humanitarian mindset.

The leading Qur'anic scholar Ikrima, interprets *asir* as slaves.[1] Slavery was a form of imprisonment. The Qur'an took the initiative of abolishing slavery and exhorted Muslims to free slaves.

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[1] Ibn Kathir, *Tafsir* 4,455

Once the Islamic state was established in Madinah, the Muslims treated prisoners extremely well, and this was unprecedented in history. Before proceeding further, let us ascertain what type of prisoner is meant by the Qur'anic expression, *asir*.

Every state puts behind bars those citizens who commit certain crimes. During war, the enemy is taken as a prisoner of war. The above verse takes into consideration both types of prisoners.[1] Abdullah ibn Abbas observes:

الأسير من اهل الشِّرک يكون في أيديهم۔

"Asir is a polytheist imprisoned by Muslims."

This is also endorsed by Qatada and Said ibn Jubayr. Qatada maintains:

لقد أمر الله بالأسرى أن يحسن اليهم و إنّ أسراهم يومئذ لاهل الشرک۔

"Allah has laid down kindness towards prisoners. At that time the only prisoners they had were polytheists."[2]

Ibn Juraij reiterates the same, as does Allama Abu Ubayd, adding that Allah praises the feeding of polytheists.[3] According to Ata Ibn Abi Rabah, *asir* is a term used for both Muslim and non-Muslim prisoners. Imam Qurtubi confirms the above, remarking that providing food even to a polytheistic prisoner draws one close to Allah. However, one may spend on him out of one's additional charity, i.e. not from zakah money.[4] Imam Ibn Jarir Tabari also upholds this view. For him, *asir* is an all-embracing term, applicable to a

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[1] Ibn Jarir, *Tafsir* 29,129-130
[2] Qurtubi, Al-Jani li *Ahkam al-Qur'an*19,129
[3] Abu Ubayd, *Kitab alAmwal,* p.543
[4] Qurtubi, Al-Jani li *Ahkam al-Qur'an*19,129

combatant who is taken captive, as also to a Muslim convict. The Qur'an compliments such noble souls who feed prisoners only for winning Allah's pleasure and out of mercy. This command, according to Tabari, is valid until the Last Day.[1]

Allama Abu Bakr Jassas is of the view that the allusion specifically refers to polytheistic prisoners. In other words, the term *asir* does not apply to a Muslim prisoner. He highlights the Qur'anic assertion that feeding prisoners is the means to gain proximity with Allah. This emerges from the wording of the Qur'anic passage whereby all types of charity may be spent on prisoners. However, the standard ruling is that the obligatory charity (zakat), which is collected by the head of the Islamic state, cannot be utilized for it.[2]

The excellent treatment of prisoners by the Prophet (pbuh) and Companions illustrates the thrust of Islamic teachings on the issue. To highlight this, one only needs to look at what occurred during the Battle of Badr, where 70 polytheists were killed and another 70 were taken as prisoners.[3] The Prophet (pbuh) distributed them among the Companions, urging them to be kind to these prisoners.[4] Abu Uzair bin Umair brother of Musab bin Umair narrated his personal experience of its implementation as follows::

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[1] Ibn Jarir *Tafsir* 29, 130

[2] *Ahkam al-Qur'an*3,579

[3] Bukhari, *Kitab al-Maghazi*. Ibn Hisham names 57 captives in his *Sira*, 2,364-367. Some, however, contest this figure. Bukhari's report though is more reliable. See Ibn Kathir, *Sira* 2,456 and 463.

[4] Mawardi relates a weak report that even the Muhajirin took care of Badri captives. Among them were : Abu Bakr, Umar, Ali, Zubayr, Abd al-Rahman ibn Awf, Said Ibn al-Aas. See Mawardi, *Al-Nakat wa al-Uyun* 4,370. No details are found about the Ansar.

He was a leader of the polytheists besides Nazar bin Haris. He says that he was handed over to a few Ansars. The effect of the teaching of the Prophet (pbuh) on the Noble companions (rege\arding kind treatment of prisoners) was such that they would feed him in the morning and evening with bread while they would content themselves with dates only. If any of the Noble Companions would get a piece of bread, he would give it to me without having even a small part thereof. I felt embarrassed with this behaviour.[1]

This is the description of the prisoners of the Battle of Badr. Other prisoners were also treated kindly and humanely. Hazrat Hassan Basri says:

كان رسول الله صلى الله عليه وسلم يؤتى بالأسير فيدفعه الى بعض المسلمين فيقول احسن اليه فيكون عنده اليومين والثلاثة فيوثره على نفسه۔

The Prophet (pbuh) would give the prisoner in the custody of a Muslim whenever one would be brought before him (pbuh). The Prophet would exhort Muslims to behave kindly with the prisoners. He (the prisonor) would live with the Muslim for a few days in which the Muslim would give the prisoners priority before his own needs.[2]

When the Battle of Badr was over, Umar sought the Prophet's permission to knock off front teeth of Suhayl ibn Amr, as he had disparaged the Prophet (pbuh). This would have rendered him unable to employ his oratory skills against him in future. The Prophet (pbuh) however, restrained him saying: "If I punish him thus, Allah might punish me in the same way, though I happen to be a Messenger". A variant

[1] Ibn Hisham, *Sira*, 2, 256-257
[2] Zamakhshari, *Al-Kashshaf*, 4, 196

report states that he remarked: "It is likely that in future he would be in a position that might not irk you."[1] Today there are laws about both prisons and prisoners. Things have, no doubt, improved much. Certain fundamental principles governing their treatment have been recognized. However, despite all the tall claims, few of these norms are really put into practice. Moreover, it is the job of the state to implement these. The general public is left out. As a result, they have little interest in this issue. Islam imbues both states and individuals to show sympathy for prisoners. Little wonder then that amazing scenes were witnessed in Islamic history. As we have already seen, Muslims provided relief to combatant prisoners of war at the expense of their own discomfort. They ate little in order to serve quality meals to captives, trying to meet their needs while sacrificing their own. More importantly, this was an altruistic act: They did not seek fame, goodwill or reward for doing so. They were keen only to win Allah's pleasure; this was their only driving force.

We, thus, see how Islam instructed the Muslims that non-Muslim prisoners of war are entitled to good treatment. They should not be tortured, physically or mentally. Notwithstanding being the enemy, they are also fellow human beings. Now that all their rights have been suspended, it is our responsibility to respect their basic human rights. Furthermore, the Islamic state is entitled to set them free with or without ransom, provided that this does not pose any risk to the state. All these norms form part of the Islamic law of war. Non-Muslims have learnt much from this Islamic code, especially international principles of war and

[1] Ibn Hisham, *Sira* 2,260-261

peace. They also introduced many reforms, based on this code. We are not providing a detailed account here for fear of deviating from our topic under discussion. The important point is that Islam asks Muslims to treat non-Muslim enemy prisoners of war well and that the Muslims acted on this noble directive.

Some relate the above Qur'anic passage to Muslim prisoners. Obviously Muslim prisoners deserve even better treatment. Qatada observes:

كان أسيرهم يومئذ المشرك و أخوك المسلم أحقّ أن تطعمه۔

"Such good conduct pertained to the polytheistic prisoners of the day. Muslim brethren deserve better treatment. Provide them with food and drink and cater for their needs."[1]

Imam Abu Yusuf addresses the issue of prisoners at length. According to him, if someone is imprisoned for indulging in disorder, wickedness, or stealing, and he has financial resources, his money should be spent on meeting his needs in prison. Charity money or public treasury funds should be utilized for looking after the poor, resourceless prisoners. Preferably, state treasury funds should be spent in this case, with payment from the state treasury being preferable.

Since it is desirable to offer food and drink to a non-Muslim prisoner and to show kindness to him, no Muslim offender can be allowed to starve. Caliphs made arrangements for the food, drink and clothing of prisoners. Instances in point are of Ali ibn Abi Talib and Muawiya in Iraq and Syria respectively.

Imam Abu Yusuf (Rah) has also advocated prison reforms.[2] The most obvious example of this, as we

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[1] Ibn Jarir, *Tafsir*, 29,130; Zamakhshari, *al-Kashshaf* 4,196.
[2] Abu Yusuf, *Kitab al-Khiraj*, pp.149-151.

have seen, was whereby it was demanded that both domestic and war prisoners be treated well.

This is proved by countless instances from Islamic history. The same spirit should also be evident while framing rules and guidelines for prisoners.

I.B. ii. Relations with non-Muslim neighbours

The Islamic teachings on ties with non-Muslim neighbours are a pointer to its tolerant, and humane outlook. For all practical purposes, one has very close interaction with one's neighbours. One's cordial relations with them affords one much joy and peace. If one is blessed with trustworthy neighbours, who do not pose any threat to his life, property and honour, and who share his joys and sorrows, it gives him immense peace of mind, enabling him to focus on his job. In an otherwise case, one undergoes an ordeal. The Prophet (pbuh) is on record as saying:

مَن كان يومن بالله واليوم الأخر فلا يؤذ جاره۔

"One who believes in Allah and the Hereafter should not hurt his neighbour."[1]

Abu Dhar Ghifari informs us that the Prophet (pbuh) instructed him: "When you prepare curry, add water to it and send some of it to your needy neighbours",[2]These teachings of good relations & kind gestures towards neighbours is universal without any discrimination between Muslim and non-Muslim neighbours.

Once Abdullah ibn Umar slaughtered a goat. He repeatedly checked with his family whether its meat had been sent to his Jewish neighbour. For the

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[1] Abu Dawud, *Kitab al-Adab.*

[2] Muslim, *Kitab al-Birr.*

Prophet's remark is: "Archangel Gabriel impressed on me the directive for kindness to neighbours so much that I thought my neighbour might even get a share in my inheritance."[1] While elaborating upon this hadith, Allama Rashid Raza Misricontends:

هٰذا دليل علىٰ أنّ ابن عمر فهم من الوصايا المطلقة فى الجار أنّها تشمل السملم وغير المسلم، و ناهيک بفهمه و علمه۔

Abdullah ibn Umar interpreted the absolute directives for kindness to neighbours as applicable to both Muslims and non-Muslims. His insights should suffice for us.[2]

He further writes,

ومن الٰاحسان الى الجار الٰاهداء اليه و دعوته الى الطعام و تعاهده بالزيارة والعياده۔

Kindness to a neighbour implies that presents be given to him; that he be invited to a meal and visits be made to him in order to ensure his welfare.[3]

The Qur'an speaks of a category of neighbour, *al-jar al-junub*. Some construe this in the sense of Jews and Christians. Allama Qurtubi's exposition is as follows:

فالو صاة بالجار مأمور بها مندوب اليها مسلماً كان او كافراً۔

"Neighbours, be they Muslims or non-Muslims should be treated well.[4]

The Islamic moral code is universal, not specific to Muslims only. Both Muslims and non-Muslims are governed by it in equal measure.

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[1] Abu Dawud, *Kitab al-Adab*
[2] Rashid Rida, *Tafsir al-Manar* 5,92
[3] Ibid.
[4] Qurtubi, *Ahkam al-Qur'an*, 5,184

Usual Social Directives regarding Muslims also apply to non-Muslims

Many directives of the Qur'an and Hadith spell out mutual relations among Muslims. However, these apply equally to non-Muslims. The good conduct, which a Muslim should have towards fellow Muslims, should be displayed towards non-Muslims as well. Two different standards cannot be adopted. Let us explore some examples of this.

Abdullah Ibn Masud's following report features in *Musnad Ahmad*, Bukhari's *Adab al-Mufrad* and the collections of Tabarani and Bayhaqi whereby the Prophet (pbuh) advised:

اجيبوا الداعى ولاتردّوا الهدية ولاتضربوا المسلمين۔

"Accept an invitation to a meal. Do not turn down a present and do not hit a fellow Muslim."

As for the last piece of advice, Allama Manavi clarifies that the only exceptions to the above pertain to a Shariah punishment or disciplinary action. Otherwise, all Muslims are to be treated with love and affection. This was the Prophet's practice in that he never hit any of his slaves. Piety demands that others' faults be overlooked. It is a major sin to beat a Muslim. Manavi adds:

والتعبير بالمسلم غالبى فمن له ذمة او عهد معتبر يحرم ضربه تعدياً۔

"Muslims are mentioned in particular in view of the context. Otherwise, in an Islamic state, it is forbidden, by the same token, to hit a dhimmi or those non-Muslims with whom there is some pact."[1]

[1] Munawi, *Faid al-Qadir sharh al-Jami al-Sagheer* 1, 164

Hitting anyone, be they Muslims or non-Muslims, betrays bad conduct which is forbidden in the above hadith. Islam does not approve of any misconduct. The following hadith recounted by Ibn Majah demonstrates the conduct that befits Muslims:

اذا استشار احدكم اخاه فليشر عليه۔

"If your brother seeks your advice, advise him sincerely."

According to Allama Manavi, if a Muslim consults another Muslim on any issue related to faith, he should give sincere advice. Otherwise, this will be taken as betrayal. In other words, a Muslim is obliged to be sincere to brethren in faith. Once again, the reference in specific to Muslims in view of its immediate context. The same ruling, however, applies if a *dhimmi* seeks advice.[1]

It cannot be contended that Islam stops Muslims from having social relations with non-Muslims. In fact, it directs that they be treated with love, sympathy and sincerity. If a Muslim has blood ties with them, he should also respect these. In any case, they should be honoured as fellow human beings. One will earn Allah's reward if one helps them in their hour of need and shares their joy and sorrow. Islam, thus, removes mental reservations on this issue, leaving no room for doubt.

Spending money on needy non-Muslims amounts to spending money in the way of Allah

The Qur'an corrects the misconception that money be spent only on fellow Muslims. It clarifies, on the

[1] Ibid., 1,275

contrary, that helping non-Muslims financially represents a form of spending in the cause of Allah.

A Qur'anic passage from Surah *Baqrah* (261-274) exhorts the spending in Allah's way sincerely, without any showing-off or hypocrisy, and both openly and secretly. In particular, needy people who do not beg should be helped. Right in the middle of the discussion comes an ayat that is particularly important. Let us analyze the relevant verse which reads thus:

لَيْسَ عَلَيْكَ هُدٰىهُمْ وَلٰكِنَّ اللّٰهَ يَهْدِيْ مَنْ يَّشَآءُ ۗ وَمَا تُنْفِقُوْا مِنْ خَيْرٍ
فَلِاَنْفُسِكُمْ ۗ وَمَا تُنْفِقُوْنَ اِلَّا ابْتِغَآءَ وَجْهِ اللّٰهِ ۗ وَمَا تُنْفِقُوْا مِنْ خَيْرٍ يُّوَفَّ
اِلَيْكُمْ وَاَنْتُمْ لَا تُظْلَمُوْنَ ۝ (البقرة)

It is not required of you (O Messenger), to set them on the right path, but Allah sets on the right path whom He pleases. Whatever of good you give benefits your own souls, and you shall only do so seeking the pleasure of Allah. Whatever good you give shall be rendered back to you, and you shall not be treated unjustly. *(al-Baqarah 2:272)*

Why is this ayat placed here and how does it relate to the topic discussed in the passage?

The following tafsir reports shed light on the circumstantial setting of the above verse. According to Abdullah ibn Abbas, it was revealed in response to Prophet's directive whereby Muslims. [1] Another Tradition sheds light on the reason for this. Sayeed bin Jabair says that Muslims used to give charity to needy *dhimmis*. However, when the Prophet (pbuh) noted the condition of needy Muslims, he directed them to earnmark their charity for fellow Muslims. When there was an increase in the number of poor Muslims the

[1] Ibn Kathir, *Tafsir* 1,323-324

Prophet (pbuh) advised Muslims to spend on co-religionists.

In another report, Abdullah ibn Abbas states that the Ansar had ties with theJewish tribes of Banu Quraiza and Banu Nazeer. Yet they avoided rendering them any pecuniary help. Rather, they insisted that the latter should first embrace Islam. The verse above asks them to change this attitude.[1] It urges them to provide help to needy Jews and even to polytheists as suggested by another narration Ibn Abbas also informs us that as the Prophet (pbuh) did not spend money on polytheists, the above verse directed him to act otherwise.[2] The same was true of Companions who refrained from providing them with monetary help.[3] Qatada, however, provides its general background, stating that in response to some Companions' query to the Prophet (pbuh) on the issue, the above verse was revealed.[4]

In the early days, Islam was bitterly opposed by the unbelievers and the Muslims were persecuted. Given this, they were naturally inclined towards having reservations about helping non-Muslims. In essence, they found it hard to justify the non-Muslims opposition to Islam. Likewise, they could not reconcile helping those who had all along striven to eliminate them. Nor were they sure whether they would earn Allah's reward for helping them. Hence, they wished that such unbelievers would accept Islam so that they could help them lavishly. Reports indicate all these factors.

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[1] Ibn Jarir, *Tafsir* 5,588
[2] Ibid., 5,587
[3] Bayhaqi, *al-Sunan al-Kubra* 4,191
[4] Ibn Jarir, *Tafsir* 5,588.

The Qur'an alleviates their misunderstanding especially the point that only their co-religionists deserve all help and support. In Islam, faith is not a barrier to extending help to fellow human beings. It is a moral and religious duty to come to the rescue of every needy person, be they Muslim, non-Muslim, polytheist, Jewish, Christian, near of kin, etc. It is inappropriate for a person to extend help on the condition that the recipient accepts Islam. This is because Allah alone decides who accepts faith. Anyone seeking it genuinely is blessed with it. If one helps human beings with a view to winning Allah's pleasure, it will bring one reward in the Hereafter. Thus, this verse from Surah *al-Baqarah* refutes many baseless charges leveled against Islam.

As already noted, consequently upon the revelation of this verse, the Prophet (pbuh) asked Muslims to give monetary help to everyone. Take the following report as illustrative:

فأمر بالصدقة بعدما على كل من سألك من كل دين-

"After the revelation of this verse, the Prophet (pbuh) issued the directive that an adherent of any faith, who seeks help, should be provided for."[1]

Of similar import is his other directive:

تصدقوا على أهل الأديان-

"Give charity money to followers of all religions."[2]

Sa'id ibn Mussayab reports that the Prophet (pbuh) gave charity to a Jewish family and that this continued for some time.[3]

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[1] Ibn Kathir, *Tafsir* 1,324

[2] Related by Ibn Abi Shayba as a *mursal* report on the authority of Said Ibn Jubayr. See *Nasb al-Raya li Ahadith al-Hidaya* 2,398

[3] Abu Ubayd, Kitab al Amwal p.543. *Nasb al-Raya* 2/398

Elucidating upon the same verse, Allama Qurtubi points out that هذا الكلام متصل بذكر الصدقات فكانه بيّن فيه جواز الصدقة على المشركين it is an important part of the Qur'anic teachings on charity. It makes plain the lawfulness of giving charity to polytheists.[1]

Let us now turn to the juristic aspect of the verse. The question is that what & which part of his wealth can a Muslim spend on Muslims and which part on non-Muslim. Islamic Shariah recognizes two types of alms: a) obligatory and b) supererogatory, for securing Allah's pleasure. In the first category, pride of place goes to zakah, which is due to reaching a certain amount of wealth. This is to be paid by only those Muslims who fall into that category. It is spent on specific heads for the welfare of poor Muslims. In the words of Allama Ibn Qudama Hanbali, the consensus view is that zakah money cannot be spent on non-Muslims.[2]Jurists differ, however, as regards the use of other alms. According to Hanafi *Fiqh, sadaqa fitr* falls due on every Muslim of *nisab* category at the end of Ramadan. He is obliged to pay it for himself and on behalf of his minor children.

Imam Malik, Imam Shafii and Imam Ahmad, equate this charity with zakah, and, hence, it can only be spent on Muslims. Imam Abu Hanifa's ruling is that *dhimmis* too, may benfit from it. Reports indicate that Amr ibn Maymun, Amr ibn Shurahbil and Marra Hamdani used to give this charity to monks.[3] Abu Maysura informs us that people entrusted their sadqa-

[1] Qurtubi, Al Jami li *Ahkam al-Qur'an*, 2,337
[2] Ibne al-Qudama, *al-Mughni* 4,106-107
[3] Abu Ubayd, *Kitab al-Amwal*, p.543; Ibne Qudama *al-Mughni*, 4,314-315

fitr amount to him and he gave it, in full or part, to monks.[1] Hanafi jurists assert:

ولَا يجوز أن يدفع الزكوٰة الى ذمى و يدفع اليه ما سوى ذٰلک من الصدقة۔

"Giving zakah to any dhimmi is not lawful. However, other alms may be given to them."[2]

و يؤدى المسلم الفطرة عن عبده الكافر۔

Nonetheless, a Muslim is obliged to pay sadaqa fitr on behalf of his non-Muslim slave.[3]

Allama Abu Bakr Jassas cited some Qur'anic verses in order to substantiate the Hanafi stance. His inference is that alms may be given to polytheists. However, *ahadith* rule out zakah for this purpose. The Prophet (pbuh) said that he was assigned to collect zakah from affluent Muslims and to distribute it among poor Mualims. Accordingly, Imam Abu Hanifa contends that alms collected by a Muslim state or ruler cannot be spent on non-Muslims, including dhimmis. Other alms may, however, be used to help them, for example alms related to vow or expiation or sadqa fitr. Imam Abu Yusuf stated that obligatory alms such as zakah cannot be spent on non-Muslims. All the above views underscore the diversity and range of juristic rulings on the issue.[4]

Zakah and other obligatory alms represent only a small part of total charity. Muslims may offer help and sympathy in a variety of ways. Islam encourages this, as also the helping of non-Muslims.

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[1] Abu Ubayd, *Kitab al-Amwal*, p.543

[2] *Hidaya* 1, 185

[3] *Hidaya* 1, 189. For a critique on the *ahadith* adduced for this see *Nasb al-Raya* 2,412-416

[4] Jassas, *Ahkam al-Qur'an*, pp.547-548

Distinction between combatants and non-combatants

Those opposed to Islam may take either of the following two courses of action. They may decide not to let Muslims live peacefully as they wage war against an Islamic state. Another option could be of co-existence, with all rights, freedoms and protection against injustice intact. In this respect, Islam itself draws a distinction between these two approaches. Although it does not discourage sympathy and cooperation to the combatant group it does caution against sharing secrets with them. For this would amount to strengthening one's own enemy. Regarding the latter, however, it unconditionally enjoins good conduct, help and support.[1] The Qur'an presses home the point thus,

لَا يَنْهٰكُمُ اللّٰهُ عَنِ الَّذِيْنَ لَمْ يُقَاتِلُوْكُمْ فِي الدِّيْنِ وَلَمْ يُخْرِجُوْكُمْ مِّنْ دِيَارِكُمْ اَنْ تَبَرُّوْهُمْ وَتُقْسِطُوْٓا اِلَيْهِمْ ۭ اِنَّ اللّٰهَ يُحِبُّ الْمُقْسِطِيْنَ ۝ اِنَّمَا يَنْهٰكُمُ اللّٰهُ عَنِ الَّذِيْنَ قٰتَلُوْكُمْ فِي الدِّيْنِ وَاَخْرَجُوْكُمْ مِّنْ دِيَارِكُمْ وَظٰهَرُوْا عَلٰٓى اِخْرَاجِكُمْ اَنْ تَوَلَّوْهُمْ ۚ وَمَنْ يَّتَوَلَّهُمْ فَاُولٰۗىِٕكَ هُمُ الظّٰلِمُوْنَ ۝ (الممتحنة)

"Allah does not forbid you, with regard to those who fight you not for your faith nor drive you out of your homes, from dealing kindly and justly with them. For Allah loves those who are just. Allah only forbids you, with regard to those who fight you for your faith, and drive you out of your homes, and support others in driving you out, from turning to them (for friendship and protection). It is such as turn to them that do wrong." (al-Mumtahannah 60:8-9).[2]

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[1] This is elaborated upon in another section of this book 'Background of the Rules for Restricted Contacts with non-Muslims'

[2] The directive to Muslims is that they should treat well and justly those who wronged them. They should not be bracketed with the enemy.

Let us first identify the group that had neither persecuted the Muslims, Nor had they supported the Muslims' persecutors. The following deserve mention on this count:

1. Hasan Basri and Abu Saleh (may Allah have mercy upon them) state that this ayat alludes to the Banu Khuza'a, Banu Hars bin Kaab, Kinanah, Muzainah and certain other Arab tribes that has entered into peace treaties with the Prophet (pbuh) promising to refrain from entering into battle against him.
2. Reference is to those members of Banu Hashim who were not a party to forcing the Prophet (pbuh) into migrating, as for example, Abbas.
3. In the opinion of Abdullah ibn Zubayr, the allusion is to non-Muslim women and children (because they are usually non-combatants).[1]

These views are not mutually contradictory. All the three statements are complementary to each other.

Such diversity in identifying who is referred to leads to the following conclusions:

1. An Islamic state should behave with justice, goodness and cordiality towards such tribes, groups and countries with whom it has peace treaties.
2. There might be non-combatant groups and classes within a state which is at war with an Islamic state. They may be sympathetic to Islam and Muslims. Muslims should, thus,

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According to Ibn Arabi Maliki, it is advisable for part of one's wealth to be spent on maintaining kinship ties. Both combatants and non-combatants should be treated justly. See his *Ahkam al-Qur'an* 2,249

[1] Alusi, *Ruh al-ma'ani* 28, 75; Razi, *Tafsir Kabir* 8,134

have good relations with them and act with sympathy and cooperation towards them.

3. Non-combatants such as women, children and disabled people are to be treated differently from combatants. The former may enjoy Muslims' love and sympathy.
4. After citing several authorities on this passage from Surah al-Mumtahanah, Tabari concludes that all non-combatants should be treated with justice and generosity, irrespective of their faith or nationality. There would be no discrimination between different groups in this regard. It would be erroneous to consider this ayat invalid in today's scenario because regardless of whether there exists familial relation with the combatant groups, it is not unlawful to be kind to them. One should not, however, divulge any intelligence or provide military assistance to them.[1]

Good treatment of dhimmis (non-Muslims in an Islamic state)

This ayat also tells us that Muslim's conduct towards a *dhimmi* and a combatant should differ. For the former, being a citizen of an Islamic state, is protected by a kind of peace treaty. It is a moral duty to share his joys and sorrows. In the opinion of Allama Abu Bakr Jassas, the verse of *al-Mumtahanah* underdiscussion has general import. Accordingly, *dhimmis* may receive alms for they are not combatants. However, the verse forbids giving alms to a combatant because they are at war with the state.[2]

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[1] Ibn Jarir, *Tafsir*, 28,41

[2] Jassas, *Ahkam al-Quran* 3,537; *ruh al-ma'ani* 28,75

Relations with combatant groups

General human relations may even be maintained even with a warring group. Furthermore they should be provided assistance in their time of distress and any loss they suffer should not be celebrated. It is evident from the Prophet's conduct that help may be rendered to them in their crisis. Imam Muhammad clarifies that a combatant or *dhimmi*may be helped. As famine befell the Makkans, the Prophet (pbuh) sent five hundred dirhams to Abu Sufyan ibn Harb and Safwan ibn Umayya for distribution among the poor and needy of Makkah. He further states that "Maintaining good relations with one's relatives is appreciated in every religion; sending gifts to others is counted among the virtuous acts."[1]

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[1] Raddul Muhtaar ala alDurrul Mukhtaar: 2/92

Societal relations

Man's varied needs have grown considerably in our time. In today's fast-paced materialistic world these needs are bound to grow further. As a result, it has been getting increasingly difficult for any town or country to be self reliant. All are forced to seek help and cooperation from others. The import and export of numerous items is one of the requirements of every country. Some produce while others buy. No country has a monopoly over the basic needs of life. Commodities are thus freely imported and exported. Furthermore, modern transportation has made international travel much easier, bringing countries closer to each other. It is not unthinkable now to visit and even reside in a distant country. In this scenario, a Muslim is faced with the issue as to what his response should be to the things produced by non-Muslims. So let us now examine items of food and clothing in this context.

Some aspects of Arab society

Food and clothing are related to culture & social life. Like any other community, the Arab polytheists had their own customs and culture, specific food items, ceremonies and feasts. Each ceremony bore a different name, marking its occasion.

Prophet Muhammad (pbuh) was born in the same culture and society, which was shared by most of his

Companions. Their food, clothing and life style were essentially the same as the Arabs of the day.[1]

Lawful and unlawful food items

Every religion places much importance on the lawfulness or otherwise of food items. Some items are sanctioned in certain religions but are forbidden in others. The Arabs too had some idea of dietary law, though their notions stemmed from their polytheistic beliefs and superstitions. Islam put an end to these false notions and declared that Allah alone can prescribe something as lawful or unlawful (verse 116 of al-Nahl). The Qur'an lists these forbidden items of food. *Surah al-An'am*, a Makkan surah, contains a critique on the false dietary notions of polytheists. Take the following as illustrative:

قُل لَّآ أَجِدُ فِي مَآ أُوحِيَ إِلَيَّ مُحَرَّمًا عَلَىٰ طَاعِمٍ يَطْعَمُهُۥٓ إِلَّآ أَن يَكُونَ مَيْتَةً أَوْ دَمًا مَّسْفُوحًا أَوْ لَحْمَ خِنزِيرٍ فَإِنَّهُۥ رِجْسٌ أَوْ فِسْقًا أُهِلَّ لِغَيْرِ ٱللَّهِ بِهِۦ فَمَنِ ٱضْطُرَّ غَيْرَ بَاغٍ وَلَا عَادٍ فَإِنَّ رَبَّكَ غَفُورٌ رَّحِيمٌ ﴿١٤٥﴾ (الانعام)

Say: "I find not in the message received by me by inspiration any meat forbidden to be eaten by one wishes to eat it, unless it be dead meat, or blood poured forth, or the flesh of the swine – for it is an abomination – or, what is impious, (meat) on which a name has been invoked, other than Allah's. But, if a

[1] Some of their ceremonies are: i) *walima*: the feast after a marriage; ii) *aqiqa*: the feast on the seventh day after a baby's birth. iii) *idhar*: to celebrate circumcision; iv) *al-naqia*: to celebrate one's safe return from a journey; v) *al-wakira*: a feast marking the construction of one's house; vi) *al-jufla*: a fest for everyone; vii) *al-ruqu*: a feast for select guests; and viii)*al-madba*: a supper. For details see Abu Umar Ahmad ibn Muhammad, al-Iqd al-Farid 6,290-292. The Prophet (pbuh) retained some of these feasts and hence these enjoy the status of Sunnah.

person is forced by necessity, without wilful disobedience, not transgressing due limits, - your Lord is Oft-Forgiving, Most Merciful, (al-An'am 6:145).[1]

This verse forbids some items which the then Arabs held as lawful and which they partook of freely. The Qur'an and Hadith state some other items as forbidden, for example, wine (verses 90-91 of *al-Maidah*). We are not, however, concerned with this here.[2]

All food items are essentially lawful

The basic principle governing Islamic dietary law is that all food items are essentially lawful. Forbidden items are only those which are declared so by Allah and His Messenger. A Muslim is bound to shun these. Otherwise, all other items are perfectly lawful and fit to eat. Notwithstanding this dietary law, one will naturally acquire the food habits of one's society and follow the same wherever one settles. Whatever one eats, one may offer to others and take their food as well, irrespective of their being Muslim or non-Muslim. If lawful food is prepared by non-Muslims, one may buy it. The following discussion brings into light some other aspects of the issue in the Islamic perspective.

Water used by non-Muslims is lawful

Water is a perfectly lawful, pure item which represents Allah's great blessing. Water is for everone. Some people discriminate against fellow human beings

[1] For details see my book, in Urdu, *'Sihat wa Marz Islami Talimat mein'*, (Islamic teachings on health and disease).

[2] An extensive discussion on lawful and unlawful food and drink features in Qurtubi, *Al-Jami li Ahkam al-Qur'an*, 7,115-123

on the basis of caste, colour and ethnic origin. They think that if water is used by a person of a lower caste, it turns impure, unfit for their use. Islam, however, regards water as intrinsically pure; it does not turn impure, no matter who touches it. It is only rendered impure whensomething dirty or impure is mixed with it. The Prophet (pbuh) and his Companions partook of non-Muslims' food and drink. They also used their water even for performing their acts of worship.

Imran ibn Hasin recounts the following incident: "Once we camped at night at a spot during travel. We kept sleeping and missed *Fajr* Prayer, which we offered later. Our water supply was exhausted while we were very thirsty. The Prophet (pbuh) directed me with some riders to look for water. We saw a woman carrying two water pots on her camel. On inquiry she said that there was no water at or around that place. She had got it from her tribe after undertaking a journey of one day and one night long. She was a widow, with small orphan children. We took her to the Prophet (pbuh) who placed his blessed hand over the water pots. He took a little water and rinsed it over Miraculously, 40 of us drank from the same pot and filled our small pots. One of us even took a bath. Yet the pots seemed overflowing. He pointed out to her that her water had not decreased. At his command we gave her pieces of bread and dates for her children which he asked her to feed her children with. On her return home, when she related the same to her tribesmen, all of them embraced Islam."[1]

It is reported of Umar that during his journey to Syria he took hot water from the house of a Christian

[1] Bukhari, *Kitab al-Maghazi*; Muslim, *Kitab al-Masajid*; Shawkani, *Nayl al-Awtar* 1, 26.

woman and did *wudu* with it.[1] Imam Shafiirelates the same, stating that Umar had taken water from the pot of a Christian woman.[2] According to Hafiz Ibn Hajr, this constitutes the rule that water taken from the people of the Book may be used, without any further inquiry about its nature. For Imam Shafi, water held by a polytheist may be used for *wudu*. Howéver, if its impurity is definitely known, it is not fit for *wudu*.[3]

Non-Muslims' food

As for man's food, it is marked by variety. He gets some items in their naturally ripe form such as fruits and nuts. In this respect, man has a limited role in their production, one confined only to growing and irrigating. At times, man gets some food items, even without any toil. If a non-Muslim produces any food item, it may be partaken of, just as one would eat something produced by a Muslim. This holds true of grains such as wheat, rice and other similar products.

Man, however, is unable to take some food items in their natural form. He adapts these, with an eye on his physical status, taste and food habits. For example one turns wheat into flour, which, in turn, assumes the form of bread. Likewise, man obtains oil from seeds. If a non-Muslim performs this process, Muslims are allowed to utilize these items. According to Qurtubi, one may, as a precaution, avoid it. However, these items are lawful.[4]

Animal meat has always been a part of man's food. In Islam, the meat of every lawful animal is

[1] Bukhari, *Kitab al-Wudu;* Qurtubi, *Al Jami li Ahkam al-Qur'an* 13, 44-45
[2] Ibn Hajar, *Fath al-Bari* 1,299.
[3] Ibid.
[4] Qurtubi, *Al Jami li Ahkam al-Qur'an* 6, 77.

permissible. However, such meat usually involves certain issues to which we will revert later.

Food products prepared or processed by non-Muslims

Lawful food items processed by non-Muslims can be consumed, as is evident from relevant *ahadith*. Abdullah ibn Umar informs us that a piece of cheese was presented to the Prophet (pbuh), who got a knife, cut it into smaller pieces and took it, while pronouncing Allah's name.[1] It is worthpointing out that cheese was not processed in Hijaz; it was imported from Syria.[2] Abdullah ibn Maghfil reports that he laid his hands on a leather bag of fat during the Battle of Khyber, which he kept in his custody, saying that he would not give it to anyone. When he turned, he saw the Prophet (pbuh) smiling.[3] Imam Nawawi argues that the above proves that the animal fat accruing from Jews' slaughter is permissible for Muslims. Maliki's and Hanbali's, however, are of the view that since such fat was forbidden for Jews, it is unlawful for Muslims as well. This is contested by Imam Malik, Imam Abu Hanifa, Imam Shafi and the majority of jurists who insist on its lawfulness. Their stance is implicitly supported by the Qur'an.[4] Furthermore, the Jews must have employed some method for preserving fat. The above ruling applies, by analogy, to butter and other products.

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[1] Abu Dawud, *Kitab al-At'ima*

[2] Shawkani, *Nayl al-Awtar 1, 26.*

[3] Bukhari, *Kitab al-Dabaih; Muslim, Kitab al-Jihad.*

[4] Nawawi, *Sharh Muslim* 4: 102, 103; Qurtubi, *Al Jami li Ahkam al-Qur'an* 6, 77.

Accepting non-Muslims' invitation for meals

Feasts and ceremonies are part of the social life of every community. Joining these signifies one's sharing of joyous occasions, reinforces mutual relations and draws people closer together. Islam encourages such participation. It is desirable to accept a fellow Muslim's invitation. One should not decline any such invitation, without a valid reason.[1]

It is all right to share food with non-Muslims. One may also invite them to one's table, if occasion so demands. Likewise, one may accept their invitation. In a multi-faith cosmopolitan plural society these may be used for many benefits in the cause of faith and social relations. The Qur'an observes, regarding the people of the Book:.

وَطَعَامُ الَّذِيْنَ اُوْتُوا الْكِتٰبَ حِلٌّ لَّكُمْ ۖ وَطَعَامُكُمْ حِلٌّ لَّهُمْ (المائدة:٥)

"The food of the people of the Book is lawful unto you and yours is lawful unto them" (al-Maidah 5:5).

Ibn Kathir points out that the clause 'your food is lawful unto them" clearly signifies that just as you are allowed to partake in their slaughtered food, so also are you allowed to feed them with the meat you have slaughtered. In other words there is no prohibition against it.[2] The Prophet (pbuh) is on record as having accepted the invitation of non-Muslims. Take Anas's following report as an instance in point:

إنّ يهودياً دعا النبى ﷺ الى خبز شعير وإهالة سنخة فأجابه۔

"The Prophet (pbuh) was invited by a Jew to have oat bread and pungent fat, which was accepted."[3]

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[1] See my book in Urdu, *Sihat wa Murz Islami Talimat mein* (Islamic teachings on health and disease)

[2] Ibn Kathir, *Tafsir* 2, 20.

[3] *Musnad Ahmad* 3,211 and 270.

Reports tell us that at the end of the Battle of Khyber a Jewish woman sent the Prophet (pbuh) mutton or invited him to a meal. This mutton, however, had been poisoned. After taking the first morsel, the Prophet (pbuh) spat it out. Yet, its poison nonetheless affected him. He and Bashr ibn Bara, his Companion, died of the same poisoning.[1]

The Prophet (pbuh) arranged for meals for non-Muslims. He even hosted the non-Muslim Thaqif delegation in Masjide Nabvi Khalid ibn Saeed was incharge of their meals. The delegates took only the food served by Khalid.[2]

Meat slaughtered by non-Muslims

Animal meat is a natural part of man's dietary intake. In this respect, Islam allows the meat of lawful animals subject to certain conditions:

1. That the lawful animal should not be found dead, irrespective of the manner of its death. The Qur'an declares: "Forbidden to you are dead meat ... of the animal that has been killed by strangling, or by a violent blow, or by a headlong fall, or by being gored to death or that which has been (partly eaten by a wild animal", (*al-Maidah5:3*)
2. It should be slaughtered in Allah's name. The polytheists took exception to it, saying that it was intriguing that an animal caused to die by Allah be

[1] Bukhari, *Kitab al-Maghazi; Fath al-Bari* 7,497. For details of the incident and its divergent accounts see *Ibn Kathir*, Sira 3,394-401. Also see my article in Urdu, "Tahaif ki Samaji wa Siyasi Ahmiat" (The Social and Political Importance of Gifts) in *Tahqiqat-i-Islami*, Aligarh, January-March 1996.

[2] The Thaqif tribe accepted Islam at a later date, though subject to certain conditions. Ibn Hisham, Sira 4, 194-197 and Ibn Kathir, *Sira* 4, 54-56.

treated as unlawful while the one slaughtered by man be taken as lawful. The Qur'an does not take notice of this silly objection. Rather, it instructs:

فَكُلُوا مِمَّا ذُكِرَ اسْمُ اللَّهِ عَلَيْهِ إِنْ كُنْتُمْ بِآيَاتِهِ مُؤْمِنِينَ ﴿١١٨﴾ وَمَا لَكُمْ أَلَّا تَأْكُلُوا مِمَّا ذُكِرَ اسْمُ اللَّهِ عَلَيْهِ وَقَدْ فَصَّلَ لَكُمْ مَا حَرَّمَ عَلَيْكُمْ (الانعام:١١٨-١١٩)

So eat of meat on which Allah's name has been pronounced, if you have faith in His signs. Why should you not eat of meat on which Allah's name has been pronounced, when He has explained to you in detail what is forbidden to you, (al-Anam 6:118-119).

3. It is forbidden to eat the meat of an animal on which Allah's name has not been pronounced, as the Qur'an proclaims: "Eat not of meat on which Allah's name has not been pronounced: that would be impiety", (*al-An'am* 6:121).
4. Equally forbidden is the meat of the animal slaughtered in a name other than that of Allah. Reference here is to animals slaughtered in the name of idols or those presented at their altar:

إِنَّمَا حَرَّمَ عَلَيْكُمُ ... وَمَا أُهِلَّ بِهِ لِغَيْرِ اللَّهِ (البقرة:١٧٣)

"He has forbidden you... the meat of the animal on which any other name has been pronounced"
(al-Baqarah 2:173)

The Arab polytheists did not abide by any divine law. Instead, they invented their own norms about the lawfulness or otherwise of animals. They, therefore, has no qualms in eating dead meat and in slaughtering animals, while invoking the names of their gods and goddesses. That is why Islam forbade their slaughtered meat for Muslims. In contrast, the people of the Book, in principle, believed in God. Accordingly, it is lawful to eat their slaughter. The Qur'an directs:

اَلْيَوْمَ اُحِلَّ لَكُمُ الطَّيِّبٰتُ ؕ وَطَعَامُ الَّذِيْنَ اُوْتُوا الْكِتٰبَ حِلٌّ لَّكُمْ ۖ وَطَعَامُكُمْ حِلٌّ لَّهُمْ (المائدة:٥)

This day are all things good and pure made lawful unto you. The food of the people of the Book is lawful unto you and yours is lawful unto them. (al-Maidah:5:5)

The reference here is to their food, which despite being a general expression, according to Abdullah ibn Abbas, refers here to permission for eating their slaughter. [1] This opinion is endorsed by many successors. Ibn Kathir reports the consensus view that the slaughter by the people of the Book is lawful for Muslims for they consider it as a forbidden act to slaughter an animal in a name other that God's: they pronounce His name.[2] Ibn Rushd reiterates the same view. Jurists do however differ on minor details.[3]

Ibn Umar disliked Muslims marrying women of the people of the Book. Yet he saw nothing wrong in eating from their slaughter. [4] Allama Nawawi too, points to the consensus on its lawfulness. Only Shia do not share this view.[5] Hanafi jurists make no distinction between *dhimmis* and combatants on this count. For them, the slaughter of the people of the Book is lawful, be they *dhimmi* or combatant.[6]

This raises the question about how to view Christians who, at times slaughter animals in the name of Jesus (pbuh) or the church and a Jewish sect that invokes the name of Ezra. Most of the Classical authorities respond to this by saying that Muslims

[1] Bukhari, *Kitab al-Dabaih*
[2] Ibn Kathir, *Tafsir* 2,19
[3] *Bidaya al-Mujtahid* 4,126.
[4] Jassas, *Ahkam al-Qur'an* 1,396
[5] Nawawi, *Sharh Muslim* 4:12, 102.
[6] Ibn Abidin, *Radd al-Muhtar* 5, 358.

should not probe as to which name they pronounce; Allah is fully aware of their faith and practices. Since He has allowed their slaughter, so should it be taken. Among the Companions, this was the stance of Abu, Darda and Ubada Ibn Samit. Among the Successors, Ata Zuhri, Rabia, Shabi and Makhul held the same view. However, Ali, Aishah and Ibn Umar were of the view that if they pronounce any other name than God's, then that slaughter was not lawful for Muslims. For the Qur'an strictly forbids such meat; see verse 121 of *al-Anam*. Among the successors, Hasan Basri and Tawus share this viewpoint. This opinion appears to be more in accord with the Qur'an and Sunnah.[1]

It is debatable about whether the slaughter carried out by a member of the Book at the behest of a Muslim is lawful or not. Imam Malik is credited with divergent views on the issue, both for and against it. Those declaring it as unlawful assert that intention is central to this act. A Muslim believes that only slaughter in accordance with Islamic norms is lawful, a view not shared by anyone other than a Muslim. The other group, however, discounts this thesis. For them, the people of the book may be deputized by a Muslim for this act, since their slaughter has been validated by Allah[2]. Hanafis regard this as an undesirable act yet take such meat as lawful.[3]

Pots used by non-Muslims

There is no divergence of opinion on the point that the pots manufactured by non-Muslim individuals or

[1] Nawawi, *Sharah Muslim* 4,102-103; Qurtubi, *Al-Jami li Ahkam al-Quran* 6, 76.
[2] Ibn Rushd, *Bidayatul Mujtahid* 4/127.
[3] Hidaya 4, 448.

companies may be freely used by Muslims. The question however, is their pots in use may be shared by Muslims or not? In other words, what are the conditions for their use? The essential points in this regard are clarified in several *ahadith*.

Abu Thalaba Khashni reports that he asked the Prophet (pbuh) if he and other. Muslims, living in an area inhabited by the people of the Book, could use their pots. To this he replied:

فان وجدتم غير أنيتهم فلا تاكلوها و ان لم تجدوا فاغسلوهَا ثم كلوا فيها

"If you have pots other than theirs, do not use theirs. However, if you do not have, wash their pots and use these for food."[1]

Another report also includes Zoroastrians in the above category, as is related by Abu Thalaba. He submitted to the Prophet (pbuh):

انا اهل سفر نمرّ باليهود والنصارى والْمجوس فلا نجد غير أنيتهم قال فان لم تجدوا غيرها فاغسلوها بالماء ثم كلوا فيها واشربوا۔

We travel much and pass through the areas inhabited by Jews, Christians and Zoroastrians. The only pots available to us are theirs. What should we do? He replied: "If you do not have other pots, wash theirs with water and then use these for eating and drinking".[2]

Another report is as follows.

سئل رسول اللّٰه صلّى اللّٰه عليه وسلّم عن قدور الْمجوس فقال انقوها غسلا واطبخوا فيها۔

[1] Bukhari, *Kitab al-Sayd*; Muslim, *Kitab al-Sayd.*
[2] Tirmidhi, *Abwab al-Sayd.*

"As the Prophet (pbuh) was asked about Zoroastrians' cooking pots, he replied: "Purify these by washing and then cook your food."[1]

It is evident from the above reports that non-Muslims' pots, including those of the people of the Book, may be used only if other pots are not available. Moreover, if these are to be used, they should be washed thoroughly. Thalaba's account points to the rationale behind this:

He told the Prophet (pbuh):

انا نجاور أهل الكتاب و هم يطبخون فى قدورهم الخنزير و يشربون فى أنيتهم الخمر۔

We live in the neighbourhood of the people of the Book. They cook pork and drink wine in their pots. Can we use their pots?"

He gave the ruling:

إن وجدتم غيرها فكلوا فيها و اشربوا، و ان لم تجدوا غيرها فارحضوها بالماء۔

"You should better use others, if these are available. If these are not, wash theirs with water before using them[2].

Reference is to only such pots which they used for eating and drinking forbidden items. The above command does not apply to pots not used for this purpose. The directive for using them after washing indicates that any pot may be put to use, once it is thoroughly cleaned. Jabir reports that Muslims used the pots of polytheists on which they laid their hands in the battles led by the Prophet (pbuh). He did not

[1] Tirmidhi, *Abwab al-Siyar*
[2] Abu Dawood, *Kitab al At'iama*

object to using these.[1] Another report, nonetheless, clarifies that these were used after washing.[2]

Imam Nawawi states that the prohibition discussed above is on account of the revulsion Muslims felt towards pork and wine; hence why they are asked not to use such pots. As for other pots, these are pure once they are washed without a trace of revulsion can very well use them area, if he has alternations.[3] Qurtubi is of the view that the directive for washing non-Muslims' pots before use by Muslims is because the former were not very particular about avoiding impure and dirty things and they also are dead meat. The Muslims are, therefore, asked to wash these, in certain cases, with boiling water. If clay pots are re-used, without washing these may contain some residue. Once washed thoroughly, however, these may be freely used. Another condition regarding pots is that they should not be made of gold, silver or pig's skin. The latter applies to a water skin. Abdullah ibn Abbas clarifies that washing suffices for brass and iron pots. Clay pots should, nonetheless, be thoroughly rinsed with hot, boiling water. Another clarification offered by Imam Malik is that non-Muslims' pots may be used even without washing, if these have not be used for cooking.[4]

Ayni adds that if a non-Muslim's pot is used by a Muslim for *wudu* or bathing, and it is not certain whether that pot is pure or not, its use is permitted, as long as that pot does not have any religious association. In an otherwise case, too, Muslims may

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[1] Ibid.
[2] Ibn Hajar, *Fath al-Bari*, 9, 623.
[3] Nawawi, *Sharh Muslim* 5, 79-80
[4] Qurtubi, *Al-Jami li Ahkam al-Qur'an* 6, 78.

use it for clearing themselves. This view is held by Imam Awzai, Thawri, Imam Abu Hanifa, Imam Shafi and his disciples. Ibn Munzir, however, draws attention to the dissenting voice of Imam Ahmad and Ishaq ibn Rahwiya on this issue.[1]

Clothes worn by non-Muslims

It is perfectly all right to wear clothing manufactured by non-Muslim weavers or their factories. *Ulema* offer the following guidelines for clothing that has already been worn by them.

According to Ibn Qudama Hanbali, the following dress items of the people of the Book may be re-used: turbans, outer gowns or any upper garment. However, Muslims should better avoid their lower garments, became they are not quite particular about their hygiene. Abu al-Khattab points out that cleanliness is of utmost importance. However, as long as the impurity of a dress item is not proved, it should be regarded as clean.[2] As for the clothing of Zooastrians and idolators, Abu al-Khattab says that the above command is applicable to these as well. Their pots and clothing should be taken as clean, unless their impurity is established. Imam Shafi endorses the above ruling.

Clothing manufactured by non-Muslim is perfectly all right. One may offer prayer while wearing these. The Prophet (pbuh) and Companions used these freely. This is the standard juristic ruling as well.[3]

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[1] Ayni, *Umdatul Qari* 2, 391.
[2] Ibne Qudama, *al-Mughni* 1, 111
[3] Ibid., 1,112.

Social Relations

In the previous chapter, eating drinking and clothes have been dealt with. While discussing social relations However, these relations cover a wide area and do, in this chapter, sever at other aspects are elucidated.

Greeting non-Muslims

Ahadith instruct that *salam* (greetings) be promoted. For the majority of *ulema*, this command is specific to Muslims and *salam* cannot be offered to non-Muslims. However, some scholars are of the view that as *salam* is a kind of supplication, it may be offered to non-Muslims as well. We will revert to this point later.[1]

Blessing non-Muslims

On Anas's authority, it is reported that the Prophet (pbuh) asked a Jew to serve him a drink and as he did so, he supplicated that he be blessed with beauty by Allah. Indeed, this Jew's hair did not turn grey until his death.[2]

While throwing more light on this tradition Allama Baghwi writes that there is no harm in praying for the welfare of the people of the Book, because it is reported that a Jew squeezed milk from the udder and

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[1] It is to be discussed in detail later in another chapter.

[2] Abd al-Razzaq, *al-Musannaf* 10,392

presented it to our Prophet (pbuh) and he in turn prayed that Allah should make him handsome. As a result the Jew's hair turned black. He lived up to about 90 years but his hair did not turn gray.[1]

Response to sneezing

The Islamic norm is that as the sneezing person utters *al-hamdulillah*, the one hearing it should respond, saying: *yarhamukullah*. In other words, both of them praise Allah and invoke His mercy. One learns from hadith that in the Prophet's sessions Jews faked sneezing, in order to hear his blessings. Although the Prophet (pbuh) did not utter the formula for them, he nonetheless made the following statement for them: *Yahdikum Allah wa yuslih balakum*.[2] This too, is a supplication, meaning that may Allah bless them with guidance and improve their condition.

In other words, such supplications may be made for non-Muslims which befit their condition. This reflects the Islamic moral code and its humane treatment of the whole of mankind.

Respect for non-Muslims

Non-Muslims are not only to be given financial help, but they also deserve to be received and treated well. Muslims' conversation, social interaction and relations with them should be marked by good conduct. Each person would be accorded respect keeping in mind his social status.

A *dhimmi* called on Qazi Ismail Ibn Ishaq and he received the former with deference, which was

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[1] Baghwi, *Sharh al-Sunnah*12,273
[2] Abu Dawud, *Kitab al-Adab*.

resented by some. The latter cited verse 8 of Surah *al-Mumtahinah* in support of his behaviour, which does not forbid good conduct towards *dhimmis* and non-combatants.[1]

As to the question of whether Muslims may rise as a mark of respect towards non-Muslims, Izz al-Din Salam declares this practice as unlawful. However, he adds that if its non-observance may harm a Muslim, he may then rise. Among Hanafi scholars, Ibn Wahban argues that if the *dhimmi* is inclined towards Islam, it may be observed.[2] Any act which spells good for the Islamic faith may be taken.

This issue is however, mixed up with the ..... *dhimmis* in an Islamic state. This should be better studied in the broader perspective of the Islamic moral code and its directives for being good and kind to everyone-fellow Muslims and non-Muslims alike.

Hosting non-Muslims

We have already taken note of the report about Asma's polytheistic mother who visited her, arriving from Makkah and bringing her gifts. With the Prophet's permission, she hosted her mother at her home and so looked after her. Shawkani comments on the above hadith thus:

فيه دليل على جواز قبول هدية المشرك كما دلت على ذلك الأحاديث السالفة و على جواز انزاله منازل المسلمين.

"It establishes that a polytheist's present may be accepted. This is amply borne out by several ahadith.

[1] Ibn al Arabi Maliki, *Ahkam al-Quran* 2, 250.
[2] Alusi, *Ruh al-Ma'ani* 28, 25.

Moreover, it sanctions hosting them at Muslims' homes".[1]

Calling on a sick non-Muslim

Calling on the sick is an important social obligation which reflects mutual concern, love and sympathy. Islam exhorts such visits, branding them as an act which brings Allah's reward.[2]

Ahadith affirm paying visits to non-Muslim patients. The Prophet (pbuh) thereby is on record as having personally visited some ailing non-Muslims. Anas informs of his visit to a member of the Banu Najjar tribe. During this visit be asked the sick person: "O my maternal uncle. Affirm the fundamental principle of Islam that there is no god other than Allah." That person asked whether this affirmation of the oneness of God would be in his interest, which was confirmed by the Prophet (pbuh).[3]

Anas related another report: "A Jewish boy used to attend on the Prophet (pbuh). When he fell ill, the latter called on him and sat next to his pillow. He asked the boy to embrace Islam. He, in turn, looked at his father who was sitting there. His father let him follow the Prophet's directive. Accordingly, he accepted Islam. The Prophet (pbuh) left the place, thanking Allah for having rescued the boy from Hell."[4]

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[1] Shawkani, Nayl al-Awtar 6,107. Umar's gift of a sheet to his polytheistic cousin proves this point; furthermore it was the Prophet (pbuh) who gave Umar the sheet in the first instance.

[2] See my book in Urdu. 'Sihat wa Marz Islami Talimat'.

[3] *Musnad Ahmad* 3, 152, 154 and 268.

[4] Bukhari, *Kitab al Janaiz*, Abd al-Razzaq. In *Musannaf* 6, 24 there is a similar tradition in which it has been said that Prophet (pbuh) had a Jewish neighbor who was not bad in character. The Prophet (pbuh) visited the Jew when he fell sick. Then a similar narration as above has been recorded. May be it is also a different incident.

The above reports are indicative of the Prophet's visits to sick Jews and polytheists. Out of concern for them, he invited them to Islam as well. A votary of truth is bound to ask everyone to accept the truth. Jurists, therefore, allow that sick non-Muslims may be visited. In other words the Shariah does not bar Muslims on this count.

Ata ibn Rabah stresses that a Muslim should call on his sick non-Muslim relative:

ان كانت قرابة قريبة بين مسلم و كافر فليعد المسلم الكافر۔

"If a Muslim and an unbeliever are near of kin, the former should visit, if the latter falls ill".[1]

One's kith and kin have greater rights. Yet a Muslim is not barred from visiting much sick non-Muslims who are not relatives. It is a religious moral and social duty which should be discharged. Sulayman ibn Musa states:

نعود بنی النصاریٰ و ان لم تكن بيننا و بينهم قرابة۔

"We call on ailing Christians, though they are not our kin".[2]

The Hanafi ruling is:

ولَا بأس بعيادة اليهودی و النصرانی لِانّه نوع برّ فی حقهم و مانهينا عن ذٰلک۔

"There is nothing wrong in calling on sick Jews and Christians. Since it constitutes good conduct towards them, Islam does not forbid it."[3]

It is asserted in *Durr Muhtar* that one may visit an ailing *dhimmi*. This also holds true for Zoroastrians.[4]

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[1] Abd al-Razzaq, *Musannaf* 6, 35.
[2] Ibid., 6, 36.
[3] *Hidaya* 4,472.
[4] *Radd al-Muhtar* 5, 341

Respect for a non-Muslim's dead body

While Sahl ibn Hanif and Qays ibn Sa'd were in Qadisiya, a coffin passed by and they rose. They were told that it was a *dhimmi's* coffin. They replied that they had followed the Prophet (pbuh) in acting thus, for the Prophet (pbuh) had risen as a coffin passed by him. When he was told that it was a Jew's coffin, he asked: "Was he not a living being?" A variant report credits him with saying that one is naturally distressed by death be they Muslim or a non-Muslim.[1]

Two points emerge from the above hadith:

(i) Death is something terrible. It should remind a Muslim of his own death and he should draw lessons on observing a dead body.

(ii) In an Islamic state, non-Muslims may freely observe their funeral rites.[2]

Joining a non-Muslim's funeral

If a Muslim's unbelieving parents or kin die, he may, if need arises, arrangefor their funeral. When the Prophet's uncle, Abu Talib, fell ill, he called on him.[3] When Ali informed him of his death, he cried. A report states that he kept seeking Allah's forgiveness until Allah forbids him.[4] Ali enquired the Prophet as to who will bury him the Prophet sent Ali to make arrangements of burial of his father and ordered him to

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[1] Bukhari, *Kitab al-Janaiz*; Muslim, *Kitab al-Janaiz.*

[2] Ulema maintain that the funeral rites and burial timing of Muslims and *dhimmis* should be different. See also Ibn Hajar, *Fath al-Bari*, 3,181.

[3] Abd al-Razzaq, *Musannaf* 6.36

[4] Ibn Saad *Al Tabaqat al-Kubree* 1/123,124. The prohibition against seeking forgiveness for polytheists can be found in verse 113 of *al-Tawbah.*

come directly after funishing the job. Ali went and buried hi father.[1] As Ali returned, the Prophet (pbuh) directed him to take a bath and blessed him with such supplications which Ali regarded as more precious than red and black camels or any worldly possession.[2]

Some jurists allow for a Muslim to bathe and bury the dead body of a non-Muslim. Others, however, permit it only if there is no other alternative. Muammar affirms: "If a Jewish or Christian acquaintance of mine dies and there's no person among his co-religionists to arrange for his funeral,[3] I shall do so, I shall not allow his body to be ripped apart by scavengers."

Hanbali jurists insist that Muslims should not bathe or bury non-Muslims, even if they be near of kin. The only exception is when no arrangement has been made for the disposal of the dead body, and here Muslims may take care of it. Imam Malik is of the same opinion. However, Abu Hafs Abkari allows this for a Muslim relative of a non-Muslim. Imam Ahmad and Imam Shafii are credited with the same view.[4]

Allama Abu Bakr Jassas, representing Hanafi jurists, opines that a Muslim may bathe, bury and join the funeral of his non-Muslim parents. He views this as good conduct towards parents which Islam enjoins.[5] A ruling of Qudoori features thus in *Hidaya*

و اذا مات الكافر وله ولى مسلم فانه يغسله و يكفنه و يدفنه۔

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[1] Some reports refer to bathing and a shroud. See Zayla'i. *Nasb al-Raya* 2,281-282.

[2] Abu Dawud, *Kitab al-janaiz*; Nasai, *Kitab al-Taharah*; *Musnad Ahmad* 2,136, Hadith Nos 807 and 1074.

[3] Abd al-Razzaq, *Musannaf* 6,42

[4] Ibne Qudama, *al-Musannaf* 6,42

[5] Jassas, Ahkam *al-Quran* 2,236.

"A Muslim guardian of a non-Muslim may bathe and bury him."[1]

This is applicable, if the Muslim is entrusted with non-Muslim's funeral. However, if the deceased's co-religionists observe their own funeral rites, the Muslim relative may join the funeral within the limits set out by the Shariah.

Participation in the funeral procession

A Muslim may attend a non-Muslim's funeral, if the deceased was a close relative. Makhul, a leading Tabiyee recounts that he, the Prophet (pbuh) joined Abu Talib's funeral, walked along the edges of the funeral procession though he did not offer the Funeral Prayer. The Prophet (pbuh) remarked: "I am joined with you by kinship. May Allah give you a good reward." He did not stand at his grave either.[2]

Sha'bi informs that when Harith ibn Rabia's Christian mother died, some Companions followed her coffin.[3] Ata ibn Rabah observes.

ان كانت قرابة قريبة بين مسلم و كافر فليتبع جنازته۔

"If a non-Muslim is a Muslim's kin, the latter should walk behind the former's coffin."[1]

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[1] The author of *Hidaya* has adopted a harsh stance. His comment is that water be poured on the dead body, as is done when washing soiled cloth. No elaborate arrangement in accordance with the *Sunnah* should be made for his burial. Rather, the body should be put inside a small hole and be covered with dust. *Hidaya* 1,161-162. Granted that a non-Muslim cannot be buried in the Islamic manner, if a Muslim is performing such a person's last rites, in our opinion, it should be done in a decent manner, displaying respect for the dead body.

[2] Abd al-Razzaq, *Musannaf* 6, 38. We have taken note of the report that at the Prophet's directive, Ali buried Abu Talib and informed him of the same. This indicates that the Prophet (pbuh) himself did not join this funeral. The above report, however, presents a different version.

[3] Abd al-Razzaq, *Musannaf* 6, 36.

While attending a non-Muslim's funeral, a Muslim should maintain his religious identity. He should express sorrow yet assent that he regards only Islam as the right faith. This message may be conveyed in a variety of ways. Regarding the death of his Christian mother, Abu Wail says that when he mentioned this to Umar, he directed him to ride in front of her coffin. Taking his cue from this, Imam Ahmad asserts that a Muslim child of Jewish or Christian parents should walk in front of their coffin and return before the burial.[2]

Someone asked Abdullah Ibn Umar if he could join the funeral of his Christian mother, and he directed him to walk in front of the coffin, signifying that he did not share her faith.[3] Qatada is of the opinion, however, that a Muslim should walk behind a non-Muslim's coffin and not get close to it.[4]

If the co-religionists of a non-Muslim deceased are present, they are free to observe their rites, which is their religious right. They will not be obstructed. A Muslim relative may only attend the funeral.

When Khalid ibn Abdullah's Christian mother died, he directed the vicar of Damascus to observe the funeral rites of the royal family in that she was one of their descendants. In accordance with the vicar's directions, the women of the family bathed her. Khalid joined the procession on his horse and moved along at a distance. Immediately after reaching the graveyard, he returned. He clarified that Abdullah ibn Abu Zakariya, a devout person of Syria, had acted in the

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[1] Ibid.
[2] Ibne Qudama, *al-Mughni* 3, 466.
[3] Abd al-Razzaq, *Musannaf* 6,37
[4] Ibid.

same manner on his Christian mother's death. Makhul, a leading Successor, followed the same practice.[1]

The Shariah allows all forms of joining a non-Muslim's funeral-walking ahead of or behind the coffin or moving in the middle or on the side of road, and riding. One should not, however, abandon one's religious identity on such an occasion. One may, however, act as the situation demands. These accounts, therefore, establish that it is not unlawful to join a non-Muslim's funeral, if the need arises.

Visiting the grave of a non-Muslim relative

If one is overcome with memories, one may visit the grave of one's unbelieving parents or relatives. According to Abu Hurayra, when the Prophet (pbuh) visited his mother's grave, tears flowed from his eyes. The Companions present there also cried. The Prophet (pbuh) then stated: "I sought my Lord's permission to seek forgiveness for my mother, which was not granted. I was, however, allowed to visit her grave in response to my request for the same. You should visit graves. It reminds you of death."[2] Imam Nauwi says that

فيه جواز زيارة المشركين فى الحيٰوة و قبورهم بعد الوفاة لِأنهٗ اذاجازت زيارتهم بعد الوفاة ففى الحيٰوة اولٰى۔

this, in itself, contains permission for visiting one's non-Muslim relatives and their graves. Since visiting their graves is permitted, calling on them when they are alive is obviously valid.[3]

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[1] Ibid., 6,37-38.
[2] Muslim, *Kitab al-Janaiz*; Abu Dawud, *Kitab al-Janaiz.*
[3] Nawawi, *Sharh Muslim* 3/45.

Condolences on the death of a non-Muslim

If one's near of kin dies, it is his or her right that condolences should be offered and sympathy expressed. Condolence is equally valid for both Muslims and non-Muslims. It is a social obligation, which fits with Islamic teachings on good social relations. One should not, however, make any comment, as part of one's condolence, which is discordant with the Islamic faith.

Imam Abu Yusuf informs us that on asking Imam Abu Hanifa how to condole the death of a child or a relative of a Jew or a Christian, he replied: "You should offer this condolence: Allah has decreed death for every creature of His. No-one can escape it. May death, which is beyond our ken, overtake us in our best state. We are from God and to His is our return. Bear with the distress that has befallen you. May Allah not diminish your race."[1]

Imam Abu Yusuf reports that when a Christian, who was a regular visitor to Hasan Basri, died, the latter offered this condolence to his brother: "May God grant you that reward which He bestows on adherents of your faith on account of this tragedy. May Allah make death a blessing for all of us. Let it be good to which we all should look forward. Do not lose patience."[2]

Such condolence is valid. A Muslim is directed to condole the death of a child of his non-Muslim neighbour. He should also pray for the compensation of his loss and the improvement of his affairs.[3]

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[1] Abu Yusuf, *Kitab al Khiraj*, 216.

[2] Ibid., p.217; similar condolence messages, with verying words by Companions, are recorded in Ibne Qudama, *al-Mughni* 3,486-487.

[33] Ibn Abidin, *Radd al-Muhtar*, 5,34

This is a glimpse of the commandment that has been enshrined in the Qur'an and the Hadees in relation to non-Muslims and the legal and moral aspects of which have been debated by our scholars and jurists.

Marital Ties

Some think inter-marriage between Muslims and non-Muslims might improve their relations, remove cultural barriers among them and draw them closer together. Islam is, however opposed to this viewpoint. Those who differ in their faith should not have any marital alliance. Islam, thus, disapproves of such ties.

One may raise the objection that on the one hand, Islam prescribes good conduct towards non-Muslims, approves social and economic ties with them and upholds their mutual cooperation, and on the other, it adopts such an inflexible stance on marital ties with them. Is it not contrary to its general teachings? Does this not then breed hostility and alienation?

The answer is that it is naive to think that inter-community or inter religious marriages might promote better cultural relations. Such superficial steps are pointless. On reflection, the Islamic stance appears logical and practical. The following important points should be borne in mind while discussing this issue. First, for a successful marriage, it is essential that the spouses have mutual love and understanding on a consistent basis. This is crucial to raising a family and to leading life with a proper orientation.

Secondly, at times, a couple enters into a marital alliance on the spur of the moment, swayed by momentary feelings of love or sexual attraction. This relationship, however, lacks stability and as a result, ends only in bitterness between them. The West is in

reality, under its catastrophic consequences. A good marital alliance presupposes a strong bond of love between the couple and the absence of factors that weaken it or hostilities between them psychological and emotial trauma, rendering it impossible for them to live together as husband and wife. Thirdly, if they follow different faiths, this represents a major difference in outlook. For faith governs man's way of life and if the partners follow different faiths, marital discord is inevitable. This might happen sooner or later but the eventual breakdown will hurt both parties. It also represents a major loss to society at large.

Some stray cases of happily married lives, notwithstanding differences in faith, may be cited. However, in such instances, neither of the spouses practices their faith. At most, they may follow soulless rituals pertaining to their faith. Since they are not inclined to faith, they do not bother about practising it. In contrast, one who subscribes to a faith, and is convinced of its truth, naturally loves to observe it and who would like his/her spouse to abide by the same faith as well. In sum, then, inter-faith marriages carry the potential to destroy the peace and joy of family life.

Now, let us examine this issue from a purely Islamic perspective and try to understand the problems involved. Indeed, the whole Islamic scheme of things is involved in this context, especially its moral and legal codes. It goes without saying that Islam aims at constructing a particular kind of society. Accordingly, it contains detailed guidance for Muslims on all aspects of everyday life, ranging from cleanliness, purity, diet, dress and appearance. It declares certain items as wholesome and lawful whereas it forbids

some as unclean and unlawful. Among kin, the code of *mahram*, and non-Mehram as well as the distinction between near & for relations operates, which accounts for observing *hijab* and marital ties. Muslims are instructed what to do on occasions from childbirth, to death. All these directives concern family life and call for the full involvement and cooperation of both husband and wife. Without this, Islamic culture & society cannot be established. Nor is it possible to perform the basic acts of worship such as prayer, fasting, hajj, and zakah which lie at the core of faith. If the spousesfollow different faiths, no mutual cooperation is possible on this count.

Islam insists that one'children should be righteous and that conviction in faith, love for Allah and obedience to Him be transmitted from one generation to another. This is possible only when both husband and wife are fired by faith and their lives are marked by God-consciousness, piety and devotion. They should both consciously strive to infuse the spirit of faith into their children, make them subservient to Allah, invest them with religious fervour and let them realize how big an asset faith is. Their children should not be susceptible to any suggestion of a change in faith. All this requires conscious effort on the part of both parents. If the parents practise divergent faiths, then such aims cannot be achieved. Parents' lives serve as a role model for children. They may get a real model, if both parents move in the same direction. If they are atheists or indifferent to faith, their children cannot grow up as religious persons.

Islam, therefore, does not recognize inter-faith marriages. In such a situation the issue of roles and obligations does not arise. For in the Islamic

perspective, they are not husband and wife. They cannot even demand of each other the fulfilment of their obligations. Furthermore, their children will not be governed by the Islamic law of maintenance, grooming and inheritance. Rather, such a couple will be liable to punishment, as ordained by the Shariah, in an Islamic state.

The prohibition of marital ties with polytheists

The Qur'an categorically forbids matital ties with polytheists:

وَلَا تَنْكِحُوا الْمُشْرِكٰتِ حَتّٰى يُؤْمِنَّ ۚ وَلَاَمَةٌ مُّؤْمِنَةٌ خَيْرٌ مِّنْ مُّشْرِكَةٍ وَّلَوْ
اَعْجَبَتْكُمْ ۚ وَلَا تُنْكِحُوا الْمُشْرِكِيْنَ حَتّٰى يُؤْمِنُوْا ۚ وَلَعَبْدٌ مُّؤْمِنٌ خَيْرٌ مِّنْ مُّشْرِكٍ
وَّلَوْ اَعْجَبَكُمْ ۗ اُولٰٓئِكَ يَدْعُوْنَ اِلَى النَّارِ ۖ وَاللّٰهُ يَدْعُوْٓا اِلَى الْجَنَّةِ وَالْمَغْفِرَةِ بِاِذْنِهٖ ۚ
وَيُبَيِّنُ اٰيٰتِهٖ لِلنَّاسِ لَعَلَّهُمْ يَتَذَكَّرُوْنَ ﴿٢٢١﴾ (البقرة)

Do not marry unbelieving (idolatrous) women, until they believe. A slave woman who believes is better than an unbelieving woman, even though she allures you. Nor marry (your) girls to unbelievers until they believe. A male slave who believes is better than an unbeliever, even though he allures you. Unbelievers becknon you to Hellfire. But allah becknons by His grace to the Garden (of Bliss) and forgiveness, and makes His sings clear to mankind so that they may be admonished. *(al-Baqarah 2:221)*

The above verse expressly rules out any marital alliance between Muslim men and polytheistic women and between Muslim women and polytheistic men. It is stressed that a beautiful, rich and polytheistic woman of a notable family is inferior to a believing slave girl, though the latter has none of the features possessed by the former. The same holds true for the superiority of a Muslim slave over a well-endowed

polytheistic male. The concluding part of the Qur'anic passage above spells out the rationale behind the Islamic prohibition. Polytheism and monotheism run counter to each other, the two following totally divergent paths. Polytheists urge that partners be ascribed to Allah while monotheism stresses Allah's oneness. According to Islamic teachings, polytheism is a path of devastation that leads to hell, while Islam is the harbinger of success in both the worlds. With such a basic difference in the faith of the spouses, their marital tie cannot be a success. Confrontation will vitiate their lives at every step, jeopardizing the peace and discipline of the home.

The Hudaibia Treaty was concluded in the month of Dhul al-Qa'da, 6H. Surah *al-mumtahanah* was sent down in 8H, prior to the Conquest of Makkah. This surah commands Muslim women married to polytheists in Makkah to migrate to Madinah and further directs that they should not return to Makkah, as their maritalties are now dissolved.[1]

لَا هُنَّ حِلٌّ لَّهُمْ وَلَا هُمْ يَحِلُّونَ لَهُنَّ (الممتحنة:١٠)

"They are not lawful for the unbelievers, nor are the unbelievers lawful for them," (al-Mumtahanah 60:10).

While interpreting the above, Ibn Kathir concludes:

هٰذا الأية هى التى حرّمت المسلمات على المشركين، و قد كان جائزا فى ابتداء الاسلام أن يتزوج المشرك المؤمنة۔

[1] This verse has a particular context and some Juristic overtones which are elucidated in my article in Urdu, *"Musalmanun awr Ghayr Muslimun ke darmiyan Izdawaji Talluqat"* (Marital ties between Muslims and non-Muslims), *Tahaqiqat-i-Islami*, April-June 1996.

This verse forbids the marriage of Muslim women with polytheists. In the early days of Islam, this practice was allowed.[1]

Allama Tayyibi explores the syntactic nuances of the sentence to bring home the meaning of the sentence, *'la human hilllal lahum'*. He says that this sentence begins with a noun. According to Arabic grammar rules, the sentence means that the separation is established and those marriages have lost their legality. In contrast *'wa la hum yuhilloona loahunna'* is a sentence while things with a verb and that will mean that marriage in future will be no longer valid. This may be one way of laying emphasis on the illegality of marriage and stress on divorce.[2]

The same verse directs Muslim men to abandon their unbelieving wives in Makkah.

وَلَا تُمْسِكُوا بِعِصَمِ الْكَوَافِرِ (الممتحنة:١٠)

"Do not hold on to your marriages with unbelieving women."

Nakhai elucidates:

وكان الكفار يتزوجون المسلمات والمسلمون يتزوجون المشركات، ثم نسخ ذلك في هذه الآية۔

"Unbelievers used to marry Muslim women and Muslims had marital ties with polytheistic women. The verse forbids such a tie."[3]

Allama Ibn Jareer Tabari adds:

هذا نهى من الله للمؤمنين عن الاقدام على نكاح النساء المشركات من أهل الاوثان، وأمرلهم بفراقهن۔

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[1] Ibn Kathir, *Tafsir* 4, 351.
[2] Alusi, Ruh al-Maani 28, 76
[3] Qurtubi, *Al-Jami li Ahkam al-Qur'an* 18, 65

"It asks Muslims to dissolve their marriages with polytheistic women and to abandon them."[1]

Instances of the above in the days of the Prophet's Companions

How the above command was enforced is pointed out thus by Imam Zuhri:

فطلق المومنون حين أنزلت هذه الأية كل امرأة كافرة كانت تحت رجل منهم۔

"As soon as the above verse was revealed, Muslims divorced their unbelieving wives."[2]

For example, Umar divorced two of his polytheistic wives who were staying in Makkah. One of these Quriba bint Abu Umayya, was married to Mu'awiya who had not by then embraced Islam. The other, Umm Kulthum bint Amr bin Jarool alkhozai married to her family member, Abu Jaham ibn Hudhaifa bin Ghanim.[3] Ayaz ibn Ghanam put an end to his marriage with Umm al-Hakam bint Abi Sufyan who, was married to Abdullah ibn Uthman Thaqafi.[4]

Talha ibn Ubaydullah dissolved his marriage with Arwa bint Rabia, who later accepted Islam and migrated to Madinah. Khalid ibn Sa'id later married her.[5]

As for those Muslim women who migrated to Madinah and were married to polytheists, their marriage stood dissolved.

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[1] Ibn Jarir, *Tafsir* 28, 47.

[2] Ibid.

[3] Bukhari, *Kitab al-Shurut*; Ibn Hisham, *Sira* 3,377. Tabari, *Tarikh al-Rusul wa al-Muluk* 2,640 and *Fath al-Bari* 9, 9.

[4] Bukhari, *Kitab al-Talaq*; Ibn Abd al-Barr *al-Ist'iab* 4,445.

[5] Ibn Hajar, *Fath al-Bari* 9, 419 and Qurtubi, *Al-Jami li Ahkam al-Qur'an* 18, 66.

Reports state that immediately after the conclusion of the Hudabia Treaty, Subi'a bint al-Harith called on the Prophet (pbuh) for her release. Her husband, Musafir Makhzumi, (or Saifi bin al Rahib) invoking the clause of the treaty, insisted on her return. After the revelation of the verse already quoted from Surah *al-Mumtahanah*, which, according to Zamakhshari, removed the vagueness in the treaty, the Prophet (pbuh) did not facilitate her return. Umar married her in Madinah.[1]

After accepting Islam, Umayma bint Bashr, fleeing from her unbelieving husband, Hassan (or Thabit) ibn Wahdah, arrived in Madinah. The Prophet (pbuh) dissolved her marriage and then arranged her subsequent marriage to Sahal ibn Hanif. She gave birth to Abdullah ibn Sahal.[2] Some reports suggest that her case served as the circumstantial setting for the revelation of the verse in *al-Mumtahanah*. Reports also mention some other women. However, in view of uncertain details about them, let us pass in silence over these.[3]

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[1] Zamakhshari, *al-Kashshaf* 4, 93; Qurtubi, *Al-jami li Ahkam al-Qur'an* 18, 61; *Fath al-Bari* 5, 348 and *al-Isaba* 4, 325.

[2] Tabari, *Tafsir* 28, 44; Ibn Hajar, *Fath al-Bari* 5,348. Ibn Athir calls into question the authenticity of this incident. He points out that Umayma bint Bishr came from the Ansar family of Banu Amr ibn Awf whereas this verse is related to Muhajirin. *Usud al-Ghaba* 7, 25. Ibn Hajar, however, defends the above version, saying that Umayma's husband may not have been an Ansar and he may have taken her to Makkah and at a later date she might have returned to Madinah. *Al-Isaba* 4,239.

[3] Ibn Hajar, *Fath al-Bari*, 5,348

The rationale behind permission for marrying women of the people of the Book[1]

Let us answer the question whether Islam treats all religions alike on this count. Here, we can state that Islam distinguished between the people of the Book and others with regard to marriage. While it forbids marrying polytheistic women, it upholds Muslims' marriages with women of the people of the Book:

.....وَالْمُحْصَنٰتُ مِنَ الْمُؤْمِنٰتِ وَالْمُحْصَنٰتُ مِنَ الَّذِيْنَ اُوْتُوا الْكِتٰبَ مِنْ قَبْلِكُمْ
اِذَآ اٰتَيْتُمُوْهُنَّ اُجُوْرَهُنَّ مُحْصِنِيْنَ غَيْرَ مُسٰفِحِيْنَ وَلَا مُتَّخِذِيْٓ اَخْدَانٍ ۭ وَمَنْ
يَّكْفُرْ بِالْاِيْمَانِ فَقَدْ حَبِطَ عَمَلُهٗ وَهُوَ فِي الْاٰخِرَةِ مِنَ الْخٰسِرِيْنَ ۝ (المائدة)

(Lawful unto you in marriage) are not only chaste women who are believers,[2] but also chaste women from among the people of the Book, revealed before your time. When you give them their due dowers, and desire chastity, not lewdness, nor secret intrigues. If anyone rejects faith, fruitless is his work, and in the Hereafter he will be in the ranks of those who have lost.

(al-Maidah 5:5)

The message is unmistakable: as a Muslim may marry a chaste Muslim woman, he is equally free to marry a chaste woman from among the people of the Book. This is in view of the common ground shared by Muslims and them in matters of faith. Both believe in God, agree in principle on monotheism, recognize the institutions of revelation and Prophethood and subscribe to the reality of the Hereafter and divine recompense. The people of the Book have, no doubt,

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[1] See my article in Urdu on the issue of Muslims marrying women from the people of the Book, "Musalmanun and Ghayr Muslimun ke Izdiwaji Talluqat", *Tahqiqat-e-Islami*, July-September 1996.

[2] The Qur'anic expression *al-muhsinat* is translated as righteous or free women.

strayed from the straight way. Yet a Muslim may not feel so isolated doctrinally from her, as with a polytheistic woman.

This might also give rise to the question of whether the people of the Book fall into the category of polytheists or not. If they are indeed guilty of polytheism, what is the relevance of the command featuring in Surah *al-Maidah*?

Abdullah ibn Abbas clarifies that initially marriage with polytheistic women was as is evident from Surah *al-Baqarah*. Later, Surah *al-Mai'dah* granted exemption in the case of the women of the people of the Book.[1] The same point is agreed upon by several Sucessors. After quoting them, Tabari affirms that the reference in Surah *al-Baqarah* to polytheistic women does not include the women of the people of the Book: *marrying* them is permitted by Allah. This point is also pressed home by Qatada and constitutes the standard position on the issue.[2]

Essentially, then the Qur'an allows such marriages. However, it does not permit Muslim women to marry the people of the Book. This is a forbidden act, as is specified in this *marfu'* hadith related by Jabir: "The Prophet (pbuh) said:

نتزوج نساء اهل الكتاب ولا يتزوجون نساء نا۔

'We will marry women of the people of the Book. However, our women do not have permission to marry them."[3]

Accordingly, the mainstream Muslim stance is permission for men to marry women of the people of

[1] Tabari, *Tafsir* 4,362
[2] Ibid, 4,365
[3] This hadith is marred by defects yet it is worth considering. Tabari, *Tafsir* 4,367.

the Book. Some *ulema* point to the consensus on the issue. Ibn Qudama Hanbali contends: "Praise be to Allah. There is no divergence of opinion on the pemission for marrying free women of the people of the Book. This view is shared by 'Umar, 'Uthman, Talha, Hudhaifa, Salman and Jabir". Ibn al-Mundhir points out that no classical authority had contested the above. Khalal informs us that Hudhaifa, Talha, Jarud and Azainat al Abdi married such women, a point corroborated by all Scholars. However, the Imamia sect among the Shia regard it as forbidden. They invoke the verses from Surahs *al-Baqarah* and *al-Mumtahanah* in their support.[1]

Among the Companions, 'Abdullah ibn 'Umar appears to have a dissenting view. He equates such women with polytheistic women. On being asked about marriage with them, he contended:

ان الله حرّم المشركات على المؤمنين، ولا اعلم من الاشراك شيئاً أكبر من أن تقول المرأة ربها عيسى وهو عبد من عباد الله۔

"Allah has forbidden polytheistic women for Muslims. To me, it is the worst form of polytheism to regard Jesus as the Lord. For he is one of the servants of Allah."[2]

Caution to be exercised in the above matter

Reports inform us that 'Umar expressed his deep anger over marrying women of the people of the Book. Shaqiq, a leading Tabiyi, relates in an authentic report that when Hudhaifa married a Jewish women, 'Umar

[1] Ibne Qudama, *al-Mughni* 9, 545.

[2] Bukhari, Kitab al-Talaq. Apart from Ibn Umar, Muhammad ibn al-Hanafia, a Successor, and the leader of the Shia Zaydia sect, declared such a marriage as forbidden.

asked him to divorce her. When Hudhaifa clarified whether he considered it as an unlawful act, he replied:

لَا أَزْعم انها حرام ولٰكن اخاف ان تعاطوا المومسات منهن-

"I do not dub it as forbidden. However, I apprehend you might marry their immoral women."[1]

'Umar, thus, recognized the provision for marrying them. What he feared was that their morally degenerate women might enter Muslim homes. His apprehension was based on the following grounds:

i) Jews and Christians of the day had degenerated morally. Marital ties with their women could affect a decline in the morals of Muslims.

ii) The Qur'anic permission is only for chaste women. 'Umar realized that it was hard to ascertain whether or not they possessed this quality. In sum, 'Umar agreed, in principle, on marrying them; he nonetheless, resented the spread of this practice in Muslim society.

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[1] Tabari, *Tafsir* 4,366-367; Qurtibi, *Al-Jami li Ahkam al-Qur'an* 3, 68.

Business contacts

Islam has declared certain things in life as permitted and certain others as forbidden. The Islamic code embraces man's economic life, including his business transactions. A Muslim is bound by this code, though non-Muslims cannot be expected to observe it. For example, Islam forbids wine, including its drinking, offering, brewing, selling, buying and transporting. Likewise, it forbids pork, including all parts of the swine's body. Muslims are not allowed to deal in this forbidden item directly or indirectly. So can a Muslim have transactions in matters concerning permitted entities with non-Muslims whose earnings are a mixture of both lawful and unlawful elements? *Ahadith* uphold such transactions. 'Aishah, for example, states:

إنّ النبى ﷺ اشترى طعاماً من يهودى الٰى اجل و رهنه درعه من حديد۔

"The Prophet (pbuh) bought grain from a Jew for a fixed period of time and pawned his iron coat of mail with him."[1]

Another report by her dates the above incident in the last phase of his blessed life. For she adds:

توفى رسول الله ﷺ و درعه مرهونة عند يهودى بثلاثين صاعا من شعير۔

[1] Bukhari, *Kitab al-Buyu*; Muslim, *Kitab al-Musaqat*. A report of similar thrust is related by Anas.

"When the Prophet (pbuh) passed away, his coat of mail was pawned to a Jew in lieu of thirty sa'a barley."[1]

In his *Ahkam al-Ahkam*, Hafiz Ibn Daqiq infers from the above:

(الحديث) دليل على جواز معاملة الكفار و عدم اعتبار الفساد فى معاملتهم-

"This hadith provides the basis for having business transactions with non-Muslims, irrespective of their mutually corrupt trade practices."

One scholar who cuntaled the book mentioned and wrote "Umdah" clarifies that unbelievers are not to be interrogated about whether they deal in pork or usury or how they earn income. The Islamic state will levy *jizyah* on them and have transactions with them as owners of lawful income, unless proved otherwise.[2]

Hafiz Ibn Hajr deduces the following rulings from the above *ahadith*: i) Transactions with unbelievers are allowed, provided these do not involve any forbidden item. In business deals with them, their false beliefs and corrupt trade practices should not be taken into account. ii) Weapons may be sold to a non-combatant unbeliever and may be pawned well. iii) *Dhimmis* will retain possession of their property. The Islamic state will not annex these.[3]

Abd al-Rahman ibn Abu Bakr reported; "While we were in the Prophet's company, a tall polytheist man with unkempt hair and leading a herd of goats arrived.

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[1] Bukhari, *Kitab al-Jihad.* The same statement occurs on the authority of Ibn Abbas. *Musnad Ahmad*, Hadith No 2109, 3,355; Nasai, *Kitab al-Buyu.*

[2] Ibne Daqiq al-Fid, *Ihkam al-Ahkam* 3, 196-197

[3] *Fath al-Bari* 5, 141. Similar arguments feature in Badr al-Din Ayni, *Umdatul Qari* 10, 394-395. See also Nawawi, *Sharh Muslim* 4,40

The Prophet (pbuh) asked him whether these were for sale or as a present. When he indicated that these were for sale, he bought a goat."[1] This hadith too establishes the validity of business transactions with non-Muslims. Battal reiterates the same stance, with the exception that such a deal should not benefit combatant unbelievers against Muslims. Ibn Hajr upholds the practice of business deals with unbelievers and insists that they retain their possessions.[2]

Ibn 'Arabi Maliki discusses the issue at length. He draws attention to Caliph 'Umar's ruling that wine cannot be accepted as in *Jizyah* from *dhimmis*. However, if they sell it among themselves, its sale proceeds are acceptable. He further remarked:

والحاسم لداء الشک و الخلاف اتفاق الائمة على جواز التجارة مع أهل الحرب۔

What causes doubts and differences is the fact that "Leading authorities agree that business may be had even with combatants.[3]

Rights of non-Muslims in the context of business

The juristic ruling on the business rights of unbelievers in an Islamic state and the constraints applicable to them is as follows:

و أهل الذمة فی البیاعات کالمسلمین۔

Dhimmis and Muslims are alike in business and trade. The former are not subject to any discrimination.

This is premised on the hadith.

إنّ لهم ما للمسلمین و علیهم ما علی المسلمین۔

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[1] Bukhari, *Kitab al-Buyu.*
[2] *Fath al-Bari* 4,410 and *Umdatul Qari* 10,11.
[3] Ibn al-Arabi, *Ahkam al-Qur'an* 1.214.

"Dhimmis will enjoy all the rights and would here the same constraints which apply to Muslims".[1]

In other words, they cannot carry out interest-based business in an Islamic state. For Islam forbids interest in all its forms. They may, however, have business deals among themselves relating to wine and pork, as is illustrated by 'Umar's assertion. He is on record as forbidding wine and pork as *jizyah* payments which would subsequently be sold. He instead directed that they should sell it among themselves and then pay their *jizyah* proceeds.[2]This is because Muslims cannot sell wine and pork even to non-Muslims, but non-Muslims may do so among themselves.

Hanafi jurists maintain that if an unbeliever repays a Muslim's loan by selling wine, then it is allowed. For the former regards wine as a valuable item and, hence, he may sell it. This is not, however, lawful for a Muslim who regards wine as something utterly worthless.[3]

Thus, although interest in an Islamic state is unlawful as a matter of policy, this does not hold true of wine. Non-Muslims may drink it and buy and sell it among themselves. The same applies pork and its products. Yet an Islamic state is within its right to ban wine and, in this case, non-Muslims too, would be unable to consume it.

Business partnership with non-Muslims

Ibn Abbas disapproved of business partnership between Muslims and Jews. Imam Shafii rejects in

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[1] *Hidaya*.3/103

[2] For details see *Hidaya* and *Fath al-Qadir* 5, 360. Umar's remark is recorded in *Nasb al-Raya* 4, 55.

[3] Hidaya 4,454.

absolute terms any partnership to be forged with Jews and Christians, his argument being that they deal in interest and their wealth contains the sale proceeds of wine and pork. However, Imam Malik, Imam Ahmad and Sufiyan Thawri opine that if Muslims have dominance over the trade and business, they may keep it interest-free. Otherwise, Muslims should not enter into such a partnership. The majority view, nonetheless, is that this tie is valid. This position stems from the hadith recounted by Ibn Umar: "After the conquest of Khyber, the Prophet (pbuh) allowed Jews to till their land on the condition that they would get half of the produce.[1] Since partnership is tenable in agriculture, its validity extends to all other fields. Moreover, unbelievers pay *jizyah*, though part of their earnings are impure.[2] In sum, Islam allows business partnerships with non-Muslims, provided that this does not involve any forbidden item.

Being employed by non-Muslims on a salary basis

The services of non-Muslims can be employed in permitted matters on an individual basis. Further, we shall discuss whether an Islamic state is also entitled to employ them. However, the point of discussion here is whether a Muslim person is allowed to serve a non-Muslim in lieu of some payment.

Ibn 'Abbas informs us that once the Prophet (pbuh) had not eaten for days. When Ali learnt about this, he went out, looking for a job. He watered the orchard of a Jew and received in return good quality dates which he presented to the Prophet (pbuh)[3]

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[1] Bukhari, *Kitab al-Shirka.*
[2] Ibne Qudama, *al-Mughni* 7, 109-110; Ibn Hajar, *Fath al-bari* 5,135
[3] Ibn Majah, *Kitab al-Ruhun.*

Another report states: "A member of the Ansar told the Prophet: 'Today I note some difference in your complexion'. The Prophet (pbuh) replied that it was on account of hunger. When he returned home, he did not find there anything that he could give to the Prophet (pbuh). So he struck a deal with a Jew to water his orchard. He earned quality dates as his wages. Later, he presented these dates to the Prophet (pbuh).[1]

Although these two incidents pertain to the Madinan period, such incidents also took place in Makkah. Khabbab reports: "I worked as a blacksmith in Makkah, mainly for 'Aas ibn Wail, who retained my wages. When I pressed him to pay them to me, he vowed that he would not do so until I recanted my faith in Islam. When I told him that I would not resort to this until his resurrection, he asked me whether he would indeed be raised up after death. I replied in the affirmative. On hearing this, he said that he would pay my dues in the Hereafter, as he would have there wealth, children and everything."[2]

Ibn Hajar elucidates the above on the authority of the Hadith scholar Muhallab:

كره أهل العلم ذلك الّا لضرورة بشرطين: أحدهما أن يكون عمله في مايحلّ للمسلم فعله والآخرأن لَا يعينه على ما يعود ضرره على المسلمين۔

"Scholars disapprove of a Muslim working for wages for a non-Muslim. In an inevitable situation, he may resort to it, only on meeting the two following conditions: i) it should be a legitimate job and ii) he

[1] Ibid. Jurists draw upon both these *ahadith*, though these are defective.

[2] Bukhari, Kitab al-Ijara. Hanafi jurists allow a Muslim to work for wages in the construction of a church. Radd al-Muhtar 5,344-345

should not help the non-Muslim in a way that may harm the interests of Muslims."[1]

As far as the distaste for serving a non-Muslim is concerned, no self-respecting community likes to work for another. The condition for Muslims is that it should be a lawful act from an Islamic perspective. Moreover, the interests of Muslims should be protected. These conditions are placed on Muslims themselves given that non-Muslims cannot be expected to observe them. For example, a non-Muslim can ask a Muslim to do jobs contrary to these. Thus these conditions are perfectly justified from a Muslim and Islamic point of view.

As to the question of whether working for non-Muslims brings disgrace on Muslims, Ibn al-Munir, a jurist, points out that it is all right for Muslim artisans to work for *dhimmis* while sitting in their own shops. This does not lower their self-esteem. What is disgraceful is for a Muslim to work as a subordinate to a *dhimmi* in his home.[2]According to Imam Ahmad, it is not lawful to work for a non-Muslim in a personal capacity. Imam Shafi is credited with views both for and against this practice. The argument in favour of this stance is that since working for wages for a *dhimmi* is allowed, there is nothing wrong in serving him in a personal capacity. Yet Imam Ahmad regards this as disgraceful, and hence unlawful. Ibn Qudama Hanbali, however, insists that it is all right to work for wages for *dhimmis*, for example, tailoring or laundering. By the same token, tenure appointments are equally valid.[3]

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[1] *Fath al-Bari* 4,452.
[2] Ibid.
[3] Ibne Qudama, *al-Mughni* 8, 135-136.

Jurists distinguish between direct and indirect service to *dhimmis*; the former is unlawful whereas the latter is all right. For example, a Muslim tailor, ironsmith, carpenter or baker may meet the needs of *dhimmis* at his shop and charge them. It does not, however, befit him to be a personal or domestic servant of *dhimmis*.

In our own times, mutual needs are catered for by large institutions, factories and production houses. These may be personal or joint companies. Some of these are under state control. Their workers, both skilled and unskilled, are employees and the rights and duties of both employees and employers are well defined. This kind of job has none of the stigma attached to a personal or domestic servant. A Muslim may seek employment in such institutions, whether these are run by Muslims or non-Muslim, as long as these do not produce anything unlawful.

Investigation and Explanation Of some important Issues

The Rule pertaining to greeting a non-Muslim

Ahadith stress the excellence of saying *salam* to others. Muslims are exhorted to promote this practice.[1] Most of the *ulema*, however, consider it as specific to Muslims alone. This because it helps improve their mutual relations, a point endorsed by Hadith. On the authority of Abu Huraira, the Prophet (pbuh) is reported to have said:

لَا تدخلوا الجنّة حتّٰی تومنوا، ولَا تومنُوا حتّٰی تحابُّوا، اَوَلَا ادلُّکم علٰی شیء اذا فعلتموہ تحابیتم، افشو السّلام بینکم۔

"You cannot enter Paradise unless you embrace faith in its totality. And you would not have complete faith unless you love one another. Should I not tell you an act which would cause you to love each other? That act is that you promote the practice of salaam amongst yourselves."[2]

The above hadith is categorical in its thrust: Muslims should offer *salaam* to one another, for it brings them closer together and strengthen their ties.

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[1] For details see my article in Urdu, "Salam ki Ahmiyat awr Ghayr Muslim ko Salam ka Hukum" (The importance of Salam and its Command relating to non-Muslims), in *Tahqiqat-e-Islami*, Aligarh, October-December 1994.

[2] Muslim, *Kitab al-Iman*. Abu Dawud, *Kitab al-Salam*; Tirmidhi, *Abwab al-Astidhan*.

The prohibition of saying salaam to non-Muslims

In view of the above hadith, it is inferred that Muslims should not offer *salaam* to non-Muslims. This point is substantiated by Abu Huraira's other report, according to which the Prophet (pbuh) said:

لَا تبدءوا اليهود والنصارى بالسلام، فاذا لقيتم أحدهم فى طريق فاضطرّوه الى أضيقه۔

"You should not be the first to say salaam to Jews and Christians. If you come across them on the street, make them walk on its edge."[1]

Let us ascertain whether the above command is for all time or specific to the conditions prevalent during those days.[2]

The nature of this prohibition

Soon after arriving in Madinah, the Prophet (pbuh) concluded a treaty with the Jews on peace& security, religious freedom and mutual cooperation.[3] However, they never honoured this agreement. Rather, their enmity, betrayal and conspiracies increased by the day. They even behaved rudely towards Muslims, a point elaborated upon later in this chapter. Yet the Qur'an

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[1] Muslim, *Kitab al-Salaam*; Tirmidhi, *Abwab al-Astidhan*; Abu Dawud, *Kitab al-Salaam*; *Musnad Ahmad* 19,74, Hadith No. 9921. A report in this mentions polytheists in place of Jews. *Musnad Ahmad* 19,15. Hadith No. 9724.

[2] This does not mean that they pushed them to the edge of the road, making it difficult for them to walk. What is meant is that if it is crowded, one should not stand out of respect for them, i.e. clearing the road for them which would then enable them to walk in the middle of it. If there is no overcrowding, they should walk like others. If one forces them to confine themselves to the edges, this amounts to offending them which the Shariah disallows. *Fath al-Bari* 11, 4.

[3] For details of this treaty see Ibn Hisham, *Sira* 2, 119-123. Some of its clauses are discussed in this work.

directed Muslims to overlook their misconduct (verse 109 of *al-Baqarah*). However, when their violation of the treaty crossed every limit, war was waged against them and they faced expulsion, (verses 1-5 of *al-Hashr*). In other words, strategies changed with time. It is likely that the above quoted command, of not initiating *salaam* and of not letting them cross the road freely, may have been prompted by the hostility then raging. As this circumstantial background is no longer existent, the above command ought not to be in force. This contention is corroborated by the conduct of some Companions and their followers at a later date.

Precedents for salaam greeting to them

It is on record that Abu Umama used to say *salaam* to every passer-by, be they Muslim or Christian, young or old. On being enquired about this, he explained that he was acting on the Prophetic advice that *salaam* be promoted.[1] Bayhaqi cites Abu Umama asserting that salaam constitutes a supplication of blessing for Muslims and a proclamation of peace and safety for non-Muslims.[2] Tabari too identifies some classical authorities who used to say salam to the people of the Book.[3] 'Abdullah ibn Masud, Abu Darda and Fudala ibn Ubayd[4] even took the initiative in offering salam to non-Muslims.

Aun bin Abdullah (Rah.) relates that Muhammad bin K'ab Qardi said that he asked Hazrat Umar bin Abdul Azeez whether one could take initiative to offer

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[1] *Fath al-Bari* 11.41

[2] Ibn Hajar, Fath al bari 11/39, Qurtubi, *Al Jami li Ahkam al-Qur'an* 11/112

[3] Qurtubi, *Al Jami li Ahkam al-Qur'an* 11,112.

[4] Ayni, *Umdatul Qari* 12, 19.

salam to the Dhimmis and he answered that it was not proper to initiate greetings to them but their greeting should be reciprocated. Aun bin Abdullah asked Qardi his personal opinion on the subject and he gave his opinion that there was no harm in greeting them first.[1]

When Awzai was asked the same, he replied that Muslims in the carly days followed both practices of initiating salaam to non-Muslims and of avoiding it.[2]

The rationale behind greeting them

Some insist that the command for saying salaam is specific to Muslims, and inapplicable to non-Muslims. One may greet them only as a social custom.

Alqama informs: "Once we were travelling, along with Ibn Masud. Some dhimmis too accompanied us. As they parted company, Ibn Masud said salaam to them. I asked him whether this was not an undesirable action. He replied that as co-travellers they deserved this courtesy."[3] Some jurists are of the view that if need aries, a Muslim may say salaam to them. Qadi Ayaz ascribes this view to Alqama and Nakhai as well.[4]

Sulayman al-Amash asked Ibrahim Nakhai whether he could offer *salaam* to his acquaintance, a

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[1] Ibn Hajar, *Fath al-Bari* 11, 39.

[2] Qurtubi, *Al Jami li Ahkam al-Qur'an* 11, 112; Nawawi, *Sharh Muslim* 5, 145.

[3] *Fath al-Bari*, 11, 41; Qurtubi, *Al Jami li Ahkam al-Qura'an* 11, 112. In the report featuring in Abd al-Razzaq's *Musannaf* there is no mention of the dialogue between Alqama and Ibn Masud, (6,12). Imam Muhammad, however, reports that a *dhimmi*, accompanying Ibn Masud, had said *salaam* to him as he left and to this Ibn Masud responded. *Kitab al-athar*, p.128. Jassas recounts the same point, suggesting that no authority disapproves of returning *salaam* to them. Jassas, Ahkam *al-Qur'an* 3, 525.

[4] Nawawi, *Sharh Muslim* 5, 145.

Christian physician. He was told that when he needed that physician's service, *salaam* could be offered to him.[1]

Qurtubi cites Nakhai thus:

اذا كانت لک حاجة عند يهودى أو نصرانى فابدأه بالسلام۔

"Whenever you need anything from a Jew or a Christian then you must begin the conversation with "Salam."

Further He explains:

فبان بهذا أن حديث أبى هريرة --- اذا كان لغير سبب يدعوكم الى أن تبدوهم بالسلام من قضاء زمام او حاجة تعرض لكم قبلهم أو حق صحبة او جوار اوسفر۔

This makes it clear that Haz Abu Hurairah's narration (forbidding offering salaam to non-Muslims) relates to offering salaam without any need thereof like claiming back something or some requirement, or he is your companion, neighbour or co-traveller, in which case there is no harm in offering salaam to them.[2]

Hanafi jurists subscribe to the same position. Likewise, shaking hands with non-Muslims is allowed, only if the need arises. One should not, however, do so without any business with them. For example, if a Muslim feels that this his Christian neighbour would be offended if he did not shake hands with him on returning from a journey, then a handshake is permissible.[3]

There is no fixed list of needs and situations, covering social, academic and economic life, whereby Muslims may offer *salaam* to non-Muslims. One is

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[1] Jassas, *Ahkam al-Qur'an* 3, 526.
[2] Qurtubi, *Al-Jami li Ahkam al-Qur'an* 11, 112.
[3] Ibn Abidin, *Radd al-Muhtar* 5, 263

free to act as the situation demands. If need arises, one may greet and shake hands with non-Muslims without any mental reservation.

Greeting them in order to win their hearts

Some think that the permission to greet non-Muslims was specific only to the early days of Islam in order to win over their hearts. But when Islam got firmly entrenched, this permission was no longer valid.[1] However, one can only hold this opinion if it is confirmed that this permission was withdrawn at a later stage. Since there is nothing on record to this effect, such a view cannot be sustained.[2] Secondly, according to the Jurists, the purpose of winning over their hearts is to 'make the hearts of non-Muslim incline towards Islam by our words & deeds.' Moreover, the objective of winning non-Muslims' hearts was not restricted to only the early days. It remains valid even when a formidable Islamic state is in place. *Salaam*, thus remains part of the Islamic ethical code. Moreover, salaam is one of the highest etiquettes taught by Islam and should be considered as such.

Greeting a mixed gathering of Muslims and non-Muslims

Ahadith adduce that salaam may be offered to a mixed group of Muslims and non-Muslims. Usama ibn Zayd recounts the following incident which happened before the Battle of Badr: "The Prophet (pbuh) went, riding a donkey, in order to call on the ailing Sad ibn Ubada, with Usama. They passed by a group

[1] Ibn Hajar, *Fath al-Bari* 1, 56; ayni *Umdatul Qari* 1, 57.
[2] Ibn Abidin, *Radd al-Muhtar* 5, 364

consisting of Muslims, polytheists, idolators and Jews. Abdullah ibn Ubayy, the ring leader of the hypocrites was among them. Abdullah ibn Rawaha was also present in the group. As the donkey got near, it raised dust which was much resented by Abdullah ibn Ubayy, who covered his nose. The Prophet (pbuh) dismounted and said salam. He invited them to believe in Allah and recited part of the Qur'an. Abdullah ibn Ubayy remarked: "If you are in the right, it is good for you. However, do not bother us in our gatherings. You should stay at your home and convey your message only to those who visit you." Abdullah ibn Rawaha however intervened, saying that they wished for him to speak in their gathering. However, hot words were exchanged between polytheists, Muslims and Jews, leading to blows. The Prophet (pbuh) asked all to keep the peace and behave properly. He then rode on and called on Sad ibn Ubadah, and apprised him of Abdullah ibn Ubayy's misconduct. Sa'd comforted him thus: "O Messenger of Allah! Forgive him. By Allah! You hold a very exalted rank. The Madinans had resolved to take him as their king. However, Allah averted his plan by sending you along with your mission of truth. This has made him an utterly frustrated person. His misconduct stems from the same grudge."[1] Accordingly, the Prophet (pbuh) overlooked ibn Ubayy's misbehaviour.

This incident brings into focus many facets of the Prophet's character: his striving in the cause of Islam, his concern to convey the message of Islam to everyone, his perseverance, his forbearance and his calling on the sick. Furthermore, one learns that salaam may be offered to a mixed gathering of

[1] Bukhari, *Kitab al-Istidhan*, Muslim, *Kitab al-Jihad*.

Muslims and non-Muslims. Hasan Basri reiterates the same point.[1] Elucidating upon the above hadith, Imam Nawawi presses home the same point, though he does clarify that salaam could be offered to the mixed gathering but one who offers salaam should think that he is offering it to the Muslims present in the gathering.[2]

Usama's report indicates the presence of Abdullah ibn Rawah in that gathering. It is not, however, established that the Prophet (pbuh) addressed his salaam only to him. This point is deduced from those ahadith which dissuage Muslims from saying salaam to Jews. However, those ahadith deal with a different set of circumstances.

One is faced with the question of whether *salaam* should be offered if one is visiting a group of non-Muslims with the intention of preaching Islam to them. In my opinion, it is permissible. For, since jurists allow it in everyday business, it should be permissible for the larger interests of Islam. This gesture may also reconcile non-Muslims to Islam, as is affirmed by some jurists.

Responding to a non-Muslim's greeting

The Qur'anic directive is that one should respond to *salaam* in a better, or at least, in the same way, (verse 86 of *al-Nisa*). Given this, should Muslims respond to salaam offered by non-Muslims? While referring to the above verse, Ibn Abbas opines:

ردّوا السلام على من كان، يهودياً او نصرانياً او مجوسياً۔

[1] Abd al-Razzaq, *Musannaf* 6, 16; Qurtubi, *Al-Jami li Ahkam al-Qur'an* 11,112.

[2] Nawawi, *Sharh Muslim* 5, 145.

"One should return everyone's salaam, be he a Jew, Christian or Zoroastrian."[1]

For Mawardi, to say *salaam* is a desirable act while returning it is an obligation. In the opinion of Ibn Abbas, Qatada and Ibn Zayd, one should return salaam, be it from a Muslim or non-Muslim. Ata, however, disagrees, insisting that a Muslim is not obliged to return a non-Muslim's *salaam*.[2]

According to Qurtubi, it is debatable whether it is obligatory that the salaam by *dhimmis* be returned. While relying on the import of the above Qur'anic verse, Ibn Abbas, Sha'bi and Qatada answer the question in the affirmative. Imam Malik's voice is, nonetheless, of dissent, as is reported by Ashhab and Ibn Wahab. If it is to be returned, only the contracted form of *salaam*: "be to you" should be used.[3]

Imam Abu Hanifa's ruling is that salaam is not to be offered to a polytheist. However, if such a person offers salaam, this should be returned. According to Imam Muhammad, this represents the standard position on the issue.[4]

Nawawi states that Shafi'is regard it as forbidden to initiate salaam to a non-Muslim, yet it is obligatory to return any salaam they make. In response, one should merely say:"The same to you." This is the majority viewpoint.[5]

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[1] Bukhari, *al-Abad al-Mufrad* 2, 533. Some Hadith scholars question the credentials of one of its narrators, namely, Abdullah ibn Thawr. However, *Tabari* too records an abridged version of this report, and none of its narrators is dubious. Tabari, *Tafsir* 8,587. Ibn Hajar accordingly endorses it: *Fath al-Bari* 11, 42

[2] Mawardi, *al-Nukat wa al-Uyun* 1,411.

[3] Qurtubi, *Al-Jami li Ahkam al-Qur'an* 5, 305, 17/293.

[4] Jassas, *Ahkam al-Qur'an* 3,525

[5] Nawawi, *Sharh Muslim* 5,145.

How to respond to a greeting by a non-Muslim?

The verse of al-Nisa directs that *salaam* be returned in a better, or at least, a similar way. The former refers to Muslims and the latter to non-Muslims. Ibn Zayd points out:

حق على كل مسلم حيّ بتحية ان يحيّ بأحسن و اذا حيّاه غير أهل اسلام أن يردَّ عليه مثل ماقال-

"As salaam is offered to a Muslim, he is obliged to return it in a better manner. Salaam by others should be reciprocated to in their own words."[1]

Qatada is of the view that *salaam* should be returned in a better way to a Muslim and the that the people of the book should be reciprocated using their words of greeting.[2]

The Qur'anic verse dealing with this issue, apparently makes no distinction between Muslims and non-Muslims on this count. What possibly accounts for it is that Muslims, having a great moral right on one another, should respond in a better way.

It is evident from the above that non-Muslim's *salaam* may be returned. Some jurists even prescribe this as a duty. It is open to discussion what this response should be and what its limits are. Depending upon the relation, such etiquettes may be differentially employed. There's nothing wrong with doing so.

The Jews' mischief in salutations and how this was countered

This subject is worth-discussing in context of the attitude of non-Muslims and the words they use to

[1] Tabari, *Jami' al-Bayan* 8,588
[2] Ibid. 8,587.

greet Muslims. The Madinan Jews, utterly hostile to Islam and Muslims, openly displayed their disparagement of Islam. They used rude language even in greetings. Here is the Qur'anic account of their mischief:

وَإِذَا جَآءُوكَ حَيَّوْكَ بِمَا لَمْ يُحَيِّكَ بِهِ اللَّهُ وَيَقُولُونَ فِيٓ أَنفُسِهِمْ لَوْلَا يُعَذِّبُنَا اللَّهُ بِمَا نَقُولُ حَسْبُهُمْ جَهَنَّمُ يَصْلَوْنَهَا فَبِئْسَ الْمَصِيرُ ﴿٨﴾ (المجادلة)

And when they come to you, they salute, not as Allah salutes you (but in crooked ways): and they say to themselves: "Why does not Allah punish us for our words?" Enough for them is Hell. In it will they burn, and evil is that destination. (al-Mujadalah 58:8)

In view of the above, the Prophet (pbuh) directed that *salaam* not be offered to Jews and it be returned with the remark that Allah may do to them what they do to Muslims.[1]

There are details in the Traditions. Some are given below:

Anas informs us that the Companions asked the Prophet (pbuh) how they should return the *salaam* by the people of the Book. He replied: "Tell them: 'The same to you."[2]

اذا سلّم عليكم أهل الكتاب فقولوا وعليكم۔

Some reports spell out the reason why this response was to be given. For, Abdullah ibn Umar relates that the Prophet (pbuh) said:

اذا سلّم عليكم اليهود فانما يقول احدهم السام عليكم فقل و عليک۔

[1] Muslim, *Kitab al-Salaam*; Abu Dawud, *Abwab al-Salaam*.
[2] Muslim, *Kitab al-Salaam*.

"When Jews salute you, they say al-sam alaykum. In response you should say: 'The same to you'.[1]

Anas provides further details of this. Once while the Prophet (pbuh) was seated, a Jewish passer-by uttered *al-sam alaykum*. However, the Companions mistook this as salaam and reciprocated accordingly by replying to his salutation. He asked them what the Jew had uttered. When they replied that he had offered *salaam*, he refuted this, pointing out that his utterance was *al-sam alaykum* (may you die or may you despair of your faith). He summoned the Jew and interrogated him. He conceded that he had uttered *al-sam alaykum*. Accordingly, the Prophet (pbuh) directed that when the people of the Book offer them *salaam*, they should respond: by saying *'alaikum ma qultum'*. ("May the same be given to you what you have wished for us.")[2]

It is clear from the above that the Jews wickedly twisted the *salaam*. Yet the Muslims were asked to respond in a decent, graceful manner. In this respect, the Jews were to be coolly told that if they are keen on the Muslims' loss, the same should afflict them. The Muslims are directed not to misbehave or quarrel with such Jews.

Lady Aishahŏ recounts: "Some Jews visited the Prophet (pbuh) and saluted him as *al-sam alayka*. I realized what they had uttered. So I retorted: 'May death overtake you and Allah's curse be on you'. He directed me to shun the use of such harsh language, for Allah approves friendliness, softness and tenderness in every issue. I asked him whether he had not heard what those Jews had uttered. The Prophet replied that

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[1] Ibid.

[2] *Fath al-Bari* 11, 43; Bukhari, *Al-Adab al-Mufrad* 2, 532-533.

he had heard what they said; in response reciprocated what they wished and that was enough."[1]

Using inappropriate salutations is forbidden

The Prophet (pbuh) was fully aware of the insinuations, conspiracies and malicious motives of the Jews. He knew very well that they used rude and abusive expressions in their salutations. Yet he never misbehaved towards them. Instead, he instructed his Companions as follows: "Our supplication for them will be accepted whereas their curse against us will not be.[2] For we are victims while they are oppressors. Allah's help reaches only the victim, opressors are denied it."

Some hold that as the Jews used to twist the *salaam* expression into a curse on the Muslims, the same should be returned to them. Such replies could by 'alaikum al-saam' (may you be stoned) or 'ala-kum-al-salam' (may peace depart from you) However, Abd· al-Barr disapproves of such a practice. His argument is that it is not lawful to abuse dhimmis. Ibn Hajar draws attention to the fact that the Prophet disapproved of lady Aisha's use of abusive language against the Jews.[3]

On studying the above reports it emerges that the prohibition against saying *salaam* to Jews or responding to their salutation in a different way has a particular historical context of Jewish hostility, malice and misconduct. However, if Muslims have cordial relations with non-Muslims and the latter do not betray hostility, Muslims should respond to their *salaam*,

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[1] Muslim, *Kitab al-Salaam.*
[2] Bukhari, Kitab al-Da'wat; Muslim, Kitab al-Salam.
[3] *Fath al-Bari* 11, 45.

provided they offer it knowing its significance. For, rulings alter with the context. This is why some *ulema* do not regard this prohibition of not responding to non-Muslims as valid for all time. Muslims may say and respond to their *salaam* as to a fellow Muslim.[1] Certain Shafi'i scholars, nonetheless, maintain that only *al-salaam alaykum* should be said and the expression *wa rahmat Allah* (and Allah's mercy be upon you) should be avoided in their case.[2] Imam Shabi does not, however, share this view. He employed the full formula in response to the *salaam* offered to him by a Christian. On interrogation he asked whether non-Muslims did not enjoy Allah's mercy.[3]Allama Ibn Qayyim states that in case a Jew or Christian greets us with *al-salam alaikum wa rahmatullah*, then it ought to be responded to in kind.[4]

The distinction between a *dhimmi* and a combatant non-Muslim while greeting

Regarding *salaam,* some draw a distinction between a *dhimmi* and a combatant.[5] In other word, non-Muslim citizens, whose lives, honour and property are guaranteed by an Islamic state, should be treated differently from those at war against an Islamic state. Abu Musa Ashari commenced his letter to a *dhimmi* with *salaam*.[6] When some people objected, he replied that it was in response to that person's *salaam*. On being asked whether it is lawful to say *salaam* to an

[1] Ibid; Ayni, *Umdatul Qari* 18, 306.
[2] Nawawi, *Sharh Muslim* 5,145.
[3] Zamakhshari, *al-Kashshaf* 1, 550.
[4] Ahkam Ahl dhimma 1/426.
[5] *Fath al-Bari* 11, 45; Ayni, *Umdatul Qari* 18, 306.
[6] Bukhari, *al-Adab al-Mufrad* 2,529.

unbeliever, the leading Hadith scholar, Ibn Uyunia replied in the affirmative and cited this verse from Surah *al-Mumtahanah*.

> *Allah forbids you not with regard to those who fight you not for faith nor drive you out of your homes, from dealing kindly and justly with them. For Allah loves those who are just. Allah only forbids you, with regard to those who fight you for faith, and drive you out of your homes, and support (others) in driving you out.*
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> *(al-Mumtahanah 60, 8-9)*[1]

Since the Qur'an does not forbid the good treatment of non-combatants, *salaam* may be offered to them. It is part and parcel of Muslim good manners.

Appropriate salutations for greeting non-Muslims

A view is also advanced that a different formula be used for greeting non-Muslim. To adduce this, reference is made to the Prophet's letter to Heraclius, the Roman king, which opens thus:

بسم الله الرّحمٰن الرّحيم، من محمّد عبدالله و رسوله الى

هرقل عظيم الروم، السلام علٰى من اتبع الهدىٰ۔ اما بعد ...

> *"In the name of Allah, most Compassionate, Most Merciful. It is from Muhammad, the servant and Messenger of Allah. It is addressed to Heraclius, the king of Rome. Peace be on who follows guidance."*[2]

Ibn Battal, a Hadith scholar, holds that in corresponddence, *salaam* may be employed for non-Muslims. Ibn Hajr, however, points out that in the above letter *salaam* is not used as a greeting rather, it is stated in principle that peace is enjoyed by those who abide by truth and divine guidance. Those outside

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[1] Qurtubi, *Al-Jami li Ahkam al-Qur'an* 11,111

[2] Bukhari, *Kitab al-Istidhan, Kitab al-Jihad and Kitab Bada al-Wahy.*

this definition are not covered. In other words, such a general, polite salutation may be used for non-Muslims.[1]

Qatada instructs that on visiting non-Muslims, a Muslim should say:السلام على من اتبع الهدى"Peace be to everyone who observes guidance."[2] Imam Abu Yusuf affirms the same.[3] Expressions such as the following are equally valid: السلام علينا و على عباد الله الصالحين"Peace be to us and to all the righteous servants of Allah."[4]

Once Ibn Umar said *salaam* to someone. On coming to know later that he was a Christian, Ibn Umar declared to him that he had withdrawn his salaam.[5] Imam Malik, however, directs that one need not go to such lengths.[6] Some, however, justify ibn Umar's practice on the grounds that it makes non-Muslims realize that Muslims do not use the standard formula of *salaam* for them. It is also stressed that community leaders who serve as a model should not initiate salaam to non-Muslims.[7] Ibn Umar's action was probably prompted by the same consideration.

Someone who looked like a Muslim said *salaam* to Aqaba Ibn Amir. In return he employed the *salaam*formula in full for him. On learning that he was a Christian, he went to see him and explained that Allah's mercy is for Muslims and, hence, the above formula could only be used for them. He, nonetheless, blessed that Christian thus: أطال الله حياتك و أكثر مالك و ولدك"May Allah grant you ripe age and increase your

[1] *Fath al-Bari* 11, 47 and 1, 38.
[2] Abd al-Razzaq, *Musannaf* 6, 12.
[3] Zamakhshari, *al-Kashshaf* 1,550.
[4] *Fath al-Bari* 11, 40.
[5] Bukhari, *al-Adab al-Mufrad* 2,539.
[6] Muwatta, *Kitab al-salaam.*
[7] *Fath al-Bari* 11, 486.

wealth and children."[1] According to Zamakhshari, ولا باس بالدعاء له بما يصلحه فى دنياه there is nothing wrong in supplicating for a person's welfare in this world.[2]

Summing Up

Salaam is an outstanding feature of Islamic culture. Most classical authorities are of the view that salaam is not to be offered to non-Muslims and that it should be returned only with *wa alaykum*. However, some jurists of the early period allow *salaam* to non-Muslims in view of the Islamic directive that it be promoted. For them, any bias against non-Muslims on this count is untenable. Some allow it for social considerations. Others draw a distinction between *dhimmis* and combatants on this count. For, the Qur'an itself recognized the vast difference between the two. It is held by some *ulema* that a general supplication for their guidance and well being be made in place of *salaam*.

In view of all these rulings, let us think about our multi-faith society, with its close social and economic links between Muslims and non-Muslims where all individuals are bound to identical constitutional and legal ties. In such a set up, if *salaam* is offered in its conventional form to non-Muslims, it does not amount to opposing classical authorities. For, the practice of *salaam* might gradually draw non-Muslims closer to Islamic norms and they might grasp its true meaning. If some Muslims feel uncomfortable, they can use a polite alternative, which accords non-Muslims respect and love. In all cases, sincerity should be displayed

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[1] Bukhari, *al-Adab al-Mufrad* 2,538.
[2] *Al-Kashshaf* 1,550.

towards them. However, in their social interaction with them, Muslims should not observe such rites and customs that are specific to another faith or culture. Nor should they use such expressions that are discordant with the Islamic belief system.

Non-Muslims entry into mosques

As the mosque is a place for worshipping Allah, it is a sacred structure, which must be kept pure and clean. Let us study, therefore, the issue about whether non-Muslims can enter mosques.

Polytheists are barred from entering the Masjid-e-Haram (Holy Mosque in Mecca)

Regarding the Holy Mosque, the Qur'anic directive is:

يَٰٓأَيُّهَا ٱلَّذِينَ ءَامَنُوٓا۟ إِنَّمَا ٱلْمُشْرِكُونَ نَجَسٌ فَلَا يَقْرَبُوا۟ ٱلْمَسْجِدَ ٱلْحَرَامَ بَعْدَ عَامِهِمْ هَٰذَا ۚ وَإِنْ خِفْتُمْ عَيْلَةً فَسَوْفَ يُغْنِيكُمُ ٱللَّهُ مِن فَضْلِهِۦٓ إِن شَآءَ ۚ إِنَّ ٱللَّهَ عَلِيمٌ حَكِيمٌ ﴿٢٨﴾ (التوبة)

"O Believers: Truly the pagans are unclean. So let them not, after this year of theirs, approach the Holy Mosque. And if you fear poverty, Allah will soon enrich you, if He wills, out of His bounty. For Allah is All-Knowing, All-Wise. (al-Tawbah 9:28)

Since this declaration in 9H, polytheists have been barred from entering the Holy Mosque for pilgrimage. This verse also serves as the basis for ulema for their discussion on the entry of non-Muslims into the Holy Mosque and other mosques.

Does the above command also apply to the sacred precincts?

Some are of the opinion that while polytheists are forbidden from entering the Holy Mosque, they may enter the sacred precincts. Others bar them from both.[1] According to Ibn Qudama, a *dhimmi* cannot enter either the Holy Mosque or its sacred precincts. His view is premised on the Qur'anic reference to the fear of poverty. It was the fear of their market being affected that is referred to, which was in the precincts, and not in the Holy Mosque per se. Moreover, the Qur'an elsewhere equates the Holy Mosque with its sacred precincts.

سُبْحٰنَ الَّذِیْٓ اَسْرٰی بِعَبْدِهٖ لَیْلًا مِّنَ الْمَسْجِدِ الْحَرَامِ اِلَی الْمَسْجِدِ الْاَقْصَا (الاسراء:۱)

Glory be to Allah Who took His servant for a journey by night from the Holy Mosque to the farthest mosque.
(al-Isra 17:1)

This alludes to the Prophet's Night Journey, which commenced from Umm Hani's house located within the sacred precincts. Yet the Qur'an states the Holy Mosque as the starting point of his journey. In other words, the two are one and the same. Therefore, the Islamic state should prohibit the entry of non-Muslims there. This prohibition also applies to traders and emissaries. If a non-Muslim intends to sell his goods there, he must stay outside the sacred precincts and trading should be conducted there. Likewise, a non-Muslim emissary will transmit his message through a Muslim to the Muslim ruler inside the sacred precincts. If need arises, the latter will meet the emissary outside the precincts. He would be prosecuted if he deliberately enters the Sacred Precincts and if he enters

[1] Shawkani, *fath al-Qadir* 2; 446.

the precinct unknowingly, a warning will be issued.[1] Imam Shafi'i too, forbids the entry of non-Muslims to both the Holy Mosque and its precincts.

Non-Muslims may enter other mosques

Does the above command govern all mosques? Some answer in the affirmative. A report states that once while Umar was within a mosque, Abu Musa Ashari visited him, carrying the record of the details relating to the territory under his rule. Umar asked him to send for the record's scribe. The latter replied that the scribe being a Christian could not visit him in mosque. This reflects the popular perception of companions that non-Muslims could not enter mosques.

Shariah prohibits those in a state of impurity caused by ejaculation, menstruation and post-delivery bleeding to stay in a mosque. The impurity caused by polytheism is far more loathsome, and hence it is all the more resentful that polytheists stay at a mosque.

Imam Malik also subscribes to the idea that non-Muslims cannot enter the Holy Mosque and its precincts. By analogy, he holds the some to be true of every mosque. He makes allowance for some exceptions, as for example, a court session inside a mosque, which they may have to attend as litigants.[2] Among Shafi'i jurists, Imam Muzni upholds this ruling. However, Hanbali jurists maintain that *dhimmis* may enter a mosque, with permission from Muslims; as such, therefore, they do not hold an automatic right to enter mosques. Once, while Ali was delivering his

[1] Ibne Qudama, *al-Mughni* 13,245-246.
[2] Jassas, *Ahkam al-Qur'an* 3,109.

sermon from the pulpit, he identified a Magian. He got down and drove him away, after beating him.[1] While Imam Shafii does not consider it permissible for non-Muslim to enter the Holy Mosque and its precincts, he does allow their entry into other mosques. However, they should only visit a mosque if they have some business dealings there. Otherwise they should stay away.

The Hanafi stance

In the opinion of Imam Abu Hanifa (Rah.), the prohibition mentioned in the Qur'an applies only during Hajj season. Non-Muslims cannot visit the Ka'bah and Hajj sites then. At other times, however, they are free to go there. However, they cannot settle as in the Hijaz. They may visit it on business tours. No such restriction applies to other mosques; non-Muslims may enter these.[2]

As to the above Qur'anic verse containing the prohibition, Jassas interprets it thus: i) This command is specific to Arab polytheists. For there was the divine command to fight them, if they refused to accept Islam. They cannot be accepted as *dhimmis*. This does not hold true for other polytheists. ii) The prohibition is related to Hajj. The verse forbids their visiting the Ka'bah and other Hajj sites such as Arafat and Muzadalifa. During Hajj season no polytheists is allowed to visit these. The verse embraces both the Holy Mosque and Hajj sites. There is a consensus that *dhimmi* may visit Arafat, Muzdalifa in non-Hajj days. So, it can very well be deduced that they may visit even the Ka'bah in the non Hajj times.

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[1] Ibne Qudama, *al-Mughni* 13,246.
[2] Shawkani, *Fath al-Qadir* 2, 446-447.

The Qur'anic allusion to fear of poverty underscores its link with the Hajj season. It was during this season that trade fairs were held there and large profits were gained. The prohibition against non-Muslims visiting could, therefore, adversely affect the income of Muslims. The Qur'an reassures them Allah will help them in other ways, they should not therefore be disheartened by this prohibition.[1]

The Concept regarding polytheists being impure

Verse 28 of Surah al-Tawbah brands polytheists as impure. If this is so, how can they enter a mosque? The answer is that the Qur'an speaks of the impurity of their doctrines, not some physical impurity embodied by them. Allamah Abu Bakr Jassas explains:

إطلاق اسم النجس على المشرک من جهة أن الشرک الذی يعتقده يجب اجتنابه كما يجب اجتناب النجاسات والأقذار،فلذلک سمّاهم نجساً۔

"Polytheists are dubbed as impure in the sense that just as one stays away from any impurity, so should one shun their belief in polytheism."[2]

Imam Shawkani points out that Zahiris, and Shia Zaydis, however, take the verse in its literal sense and regard non-Muslims as impure. The same view is ascribed to Hasan Basri and Ibn Abbas. Shawkani states further:

و ذهب الجمهور من السّلف و الخلف و منهم أهل المذاهب الأربعة الى أن الكافر ليس بنجس الذات، لأنّ اللّٰه سبحانه أحلّ طعامهم و ثبت عن النبی ﷺ فی ذلک من فعله و قوله

[1] Jassas, *Ahkam al-Qur'an* 3, 108-111
[2] Ibid., 3,108.

ما يفيد عدم نجاسة ذواتهم فأكل فى آنيتهم و شرب منها و توضأ فيها و أنزلهم فى مسجده۔

"The majority view of both classical and modern authorities, including the four leading imams, is that an unbeliever is not literally impure. For Allah has declared his food as lawful. The same point is evident from the Prophet's conduct. He took food and drank water from their pots, used their water for wudu and hosted them in his mosque."[1]

The issue of the impurity or otherwise of non-Muslims, as perceived by Shafi and other jurists, is reported thus by Nawawi:

... أما الكافر فحكمه فى الطهارة و النجاسة حكم المسلم، هٰذا مذهبنا و مذهب الجماهير من السلف والخلف، و أما قول اللّٰه عزو جل إِنَّمَا الْمُشْرِكُوْنَ نَجَسٌ فالمراد نجاسة الْاعتقاد والْاستقذار، وليس المراد ان أعضاء هم نجسة كنجاسة البول والغائط ونحوهما،فاذا ثبت طهارة الْادمى مسلماً كان او كافراً فعرقه و لعابه و دمعه طاهرات، سواء كان محدثاً او جنباً او حائضاً او نفساء، و هٰذا كله باجماع المسلمين۔

"As to personal hygiene and purification, Muslims and non-Muslims are alike. This is Shafii's stance and that of major authorities. The Qur'anic remark about their impurity highlights their doctrinal impurity. It does not mean that their bodies are impure like urine or stools. By virtue of the same analogy, their sweat, tears and saliva are also clean. Since human beings are intrinsically pure, they should be treated as such, even if they are not in a state of wudu or have been rendered

[1] Shawkani, *Fath al-Qadir*, 2, 446.

ritually unclean by ejaculation, menstruation or post-delivery bleeding. Muslims have a consensus on this."[1]

Precedents of non-Muslims entering mosques

Over and above everything else, *Ahadith* prove that non-Muslims used to enter mosques. After the Battle of Badr, Umayr ibn Wahb, a polytheist then, arrived in Madinah with the intention of assassinating the Prophet (pbuh) and entered the Prophet's Mosque. On being asked about his purpose, he said that he had come to request the release of his son taken captive during the Battle of Badr. The Prophet (pbuh) interrogated him, asking him to confirm his real intention and stating that he knew he had discussed the plot with Safwan ibn Umayya, who had pledged to repay his loan and look after his family. Astounded, Umayr ibn Wahb exclaimed: "Undoubtedly you are the Messenger of Allah! We opposed you, thinking that you did not receive divine revelation. No one knew about the conversation between Safwan and I. Since Allah has informed you of the plot it is but certain that He sends down His message to you." The Prophet (pbuh) then directed the Companions to instruct him in the articles of faith and to free his captive son.[2] Ibn Qudama cites the incident thus:

و قدم عمير بن وهب فدخل المسجد، والنبيّ فيه، ليفتک به، فرزقه الله الإسلام۔

[1] Nawawi, *Sharh Muslim* 2,66

[2] Ibn Hisham, Sira 2,308-309. This carries the additional note that Umair Ibn Wahab sought permission to go to Makkah in order to carry out the mission of Islam. This he was allowed to do. He bore with staunch opposition there yet still managed to bring many to the fold of Islam.

"When Umar ibn Wahab arrived from Makkah to Madinah, the Prophet (pbuh) was in his mosque. He entered it in order to assassinate him. However, Allah blessed him with Islam."[1]

After the Hudaibia Treaty, Abu Sufyan went to Madinah in order to renew it. However, his proposal was turned down in view of the repeated violation of the treaty by the Quraysh. At Ali's suggestion he went to the Prophet's Mosque and declared that he would dissuade his people from engaging in war and then he left.[2] Saeed ibn Mussayb informs us, as related by Ibn Qudama, قد كان ابوسفيان يدخل مسجد المدينة وهو على شركه that Abu Sufyan used to visit the Prophet's Mosque while he was a polytheist.[3]

Thumama ibn Athal, taken as a captive in a battle, was tied to a pillar in the Prophet's mosque so that he could not escape. When the Prophet (pbuh) observed this, he directed that he be set free. Thumama was so much impressed by his excellent conduct that he soon embraced Islam.[4]

Not only non-Muslim individuals, but also delegations stayed at the Prophet's Mosque. Abu Dawud relates the following on the authority of Uthman ibn Abu al-Aas: "When the delegation of the Thaqib tribe arrived, the Prophet (pbuh) directed they stay at his mosque so that the Muslim mode of worship and their collective life and conduct might draw them closer to Islam. The delegates did accept Islam. Initially some allowances were made for them, yet

[1] Ibn Qudama, *al-Mughni*, 13,246.
[2] Ibn Hisham, *Sira* 4, 13-14.
[3] Ibn Qudama, *al-Mughni* 13, 246.
[4] Bukhari, *Kitab al-Maghazi*.

they were asked to observe prayer punctually." [1] Another report states that a tent had been put up for them inside the mosque so that they could observe the Muslims offering prayers. Someone submitted to the Prophet (pbuh) that they, being impure, should not stay inside the mosque. He replied: "The earth itself is not impure. Children of Adam may turn impure."[2]Khatabi concludes:

و فی هٰذا الحدیث من العلم ان الکافر یجوز له دخول المسجد لحاجة له فیه اوللمسلم الیه۔

"The above hadith establishes that if a non-Muslim has some business in a mosque or if he intends to meet a Muslim there, he may enter it."[3]

Court sessions inside mosques and non-Muslims' presence

Jurists have debated the point about whether a court can be set up in a mosque. If it can be, how can a non-Muslim appear there? Imam Shafii argues that since everyone, Muslim and non-Muslim and clean and unclean people have business in court, it should not be located inside a mosque. The mosque is essentially for worship and this should be its exclusive business.

Hanafis, however, prefer that a qadi should hold his session in a mosque, preferably the main mosque, or at a place accessible to people. Imam Ahmad also endorsed this view. Imam Malik too was inclined to this view. Hanafis point out that adjudging cases in accordance with the Shariah is, in itself, a mode of

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[1] Abu Dawud, *Kitab al-Kharaj*.
[2] *Nasb al-Raya* 4.270.
[3] Khattabi, *Ma'lim al-Sunan* 3, 35.

worship, and, hence, court sessions may be held inside a mosque. Moreover, it was the practice of the Prophet (pbuh) and of the Rightly Guided Caliphs to hear and adjudge cases inside mosques. If non-Muslims enter mosques for attending court, this is all right; نجاسة المشرك فى اعتقاده لا فى ظاهره they are perceived as impure in terms of their beliefs, not physically.[1]

We have taken stock of the juristic rulings on the issue. Most of them disallow, indeed strongly oppose, non-Muslim' entry into the Holy Mosque and some of them even into the sacred precincts. Hanafis allow entry subject to certain conditions. As for their entry into other mosques, it has been held permissible by the majority of scholars. These *ulema* regard unbelief and polytheism as impure yet they do not perceive those practising it as being embodiments of impurity or that their entry would desecrate the mosque. In view of these facts it is ridiculous, rather outrageous to hold that Islam infuses into Muslims bias, contempt and intolerance towards non-Muslims. Since it allows the entry of non-Muslims into mosques, which are places of worship, it outlook on treating them well in everyday life can perhaps be better appreciated.

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[1] *Fath al-Qadir* 5,465-466.

Exchanging gifts with non-Muslims

Exchanging gifts is a pleasant aspect of social life. It contributes much to improving social relations. At times, it yields strategic.

The Prophet's exchange of gifts with non-Arab kings

Ahadith indicate the Prophet's exchange of gifts with non-Muslims. In this respect, he sent presents to non-Muslim rulers and accepted theirs.[1] The following incidents illustrate the point. Ali informs us:

ان كسرىٰ اهدىٰ له فقبل و ان الملوک اهدوا اليه فقبل منهم۔

"The Persian king sent the Prophet (pbuh) a present which he accepted. Likewise, he took gifts sent to him by other rulers."[2]

Another report from Ali refers to this exchange with the Roman king as indeed with other rulers:

اهدىٰ كسرى لرسُول الله ﷺ فقبل منه، و أهدىٰ له قيصر فقبل منه، و أهدت له الملوک فقبل منهم۔

"The Prophet (pbuh) accepted presents from the Persian and Roman rulers. He did the same with regard to gifts sent to him by other rulers."[3]

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[1] *Ahadith* exhort Muslims to exchange gifts. The Prophet (pbuh) frequently gave gifts. For details see my article in Urdu "Tahaif ki Siyasi wa Samaji Ahmiyat" (The Social and Political Significance of Gifts), *Tahqiqat-i-Islami* January-March 1996.

[2] Tirmidhi; *Abwab al-Siyar*.

[3] *Musunad Ahmad* 2, 107. Hadith No. 747. Common to the reports of Tirmidhi and Ahmad is the narrator Thuwaiyr ibn Fakhta whom

The Battle of Tabuk broke out in 9H. Abu Humaid Saidi reports that the ruler of Ayla[1] presented a white mule and a shawl to the Prophet (pbuh). He further concluded a treaty with the Muslims and agreed to pay *jizyah*. In return the Prophet (pbuh) let him retain his rulership.[2] Anas inform us that Ukaydar Duma[1] sent

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Hadith scholars dismiss as weak. However, other reports and incidents confirm the practice of accepting gifts from non-Muslims.

[1] Ibn Hajar introduces Ayla as an ancient port town, see *Fath al-Bari* 3,231. Ayni speaks of it as a town on the way from Egypt to Makkah, which now lies desolate, see *Umdatul Qari* 11, 75. Nawawi provides additional information: Ayla is a famous coastal town in Syria, located between Madinah, Damascus and Egypt. It is at a distance of five, twelve and eight *marahil* from Madinah, Damascus and Egypt respectively.Abu Ubaid too refers to it as a town in Syria. Hazmi identifies it as a port town. Some speak of it as the last town of the Hijaz and the first one of Syria, Nawawi, *Tahdhib al-Asma wa al-Lughat* 1, 19. Yuhanna ibn Rauba was the name of its king, as is clear from the peace treaty granted to him by the Prophet (pbuh). See Ibn Hisham, Sira 4, 179-180 and *Fath al-Bari* 3,345.

[2] See Bukhari, Kitab al-Zakah and Muslim, Kitab al-Fadail. A report by Muslim names him as Farwah ibn Nafatha in place of the king of Ayla. (Kitab al-Jihad). However, this pertains to a different incident. Nawawi insists that the reports of the day specify that only a white mule was in the Prophet's use, known as Duldul, see Sharh Muslim 4, 113. Nawawi states elsewhere that this hadith justifies the practice of accepting an unbeliever's gift. It appears from the wording of the hadith that the mule called Duldul was presented to the Prophet (pbuh) during the Battle of Tabuk in 9H. It was in his use, however, at an earlier date, for example, in the Battle of Hunain in 8H. It is possible that the king of Ayla might have presented it to him earlier. However, reports link it with the Battle of Tabuk. Qazi Ayad stresses that only one mule was mounted by him: see Nawawi, Sharh *Muslim* 5, 42-43. Ibn Kathir too lists only one mule: see *Sira* 4,714. Some *ahadith*, nonetheless, reflect his use of other mules. Included in Hakim's *Mustadrak* is Ibn Abbas's report that the Persian king had sent him a mule as a gift which he rode, accompanied by Ibn Abbas. This was in addition to Duldul. Both King Negus and the ruler of Dumatul Jandal also presented him with a mule each. Duldul was the name of the mule presented by the Egyptian king. Fidda or Shahba was the name of the mule which the Prophet (pbuh) rode during the Battle of Hunain, presented to him by Farwa ibn Nafatha, see *Fath al-*

the Prophet (pbuh) a silken shirt as a gift. When people looked at it amazingly, he remarked: "By Him Who controls my life, Sad ibn Muadh's handkerchiefs in Paradise are much better than this."[2] Ali states that he received these silks and then distributed them among the ladies of his family.[3] Ibn Abi Shayba and Bazzar relate on Anas's authority that Ukaydar presented the Prophet (pbuh) with a special variety of honey-dew, which he accepted and distributed among his Companions.[4]

In 6H the Prophet (pbuh) deputed Hatib ibn Abi Balta to convey a message to the Patriarch of Alexandria, Muqawqis, who summoned Hatib to his court and questioned him about his assignment. He

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Bari 3, 345-346. Ibn Qayyium refers to his four mules including the one as a gift from Negus: see *Zad al-Ma'ad* 1, 134.

[1] Ukaydar ibn Abd al-Malik al-Kindi was the king of Duma. Some hold that he had accepted Islam. Ibn Athir, however, refutes this. According to him, he had sent a gift to the Prophet (pbuh) and concluded a peace treaty with him. Yet he did not embrace Islam; rather he was a Christian. After the treaty he remained inside his fort. During Abu Bakr's reign, Khalid laid siege around Duma and in the ensuing battle he was killed. Baladhuri reports that after accepting Islam and meeting the Prophet (pbuh) he later turned into an apostate and refused to pay zakah, which he had earlier been paying. Being an apostate he cannot be reckoned as a Companion: see Usud al-Ghaba 1, 135. Ibn Hisham records his arrest at the hands of Khalid. However, the Prophet (bpuh) pardoned him, had a peace treaty with him on the basis of *jizyah* and set him free: see Ibn Hisham, *Sira* 4,181. Another report says that on meeting the Prophet (pbuh) he presented to him a gown with gold embroidery, which he returned. Later, he asked him to give the same to Umar: see *Fath al-Bari* 5, 231.
Dauma is located near Tabuk, between Hijaz and Syria. It is at a distance of thirteen and ten *marahil* from Madinah and Damascus respectively. Date orchards and farming were evident there. Wheat was mostly grown and camels used to irrigate the fields. It also had a fort, See Nawawi, *Sharh* Muslim, 5, 50 and *Fath al-Bari* 5,231.

[2] Bukhari, *Kitab al-Hiba*

[3] Muslim, *Kitab al-Libas*

[4] Ayni, *Umadatul Qari* 11, 73.

was pleased with Hatib's reply and exclaimed: "You are a wise person; sent to me by a wise person." In return, the Egyptian ruler sent some presents to the Prophet (pbuh) through Hatib, including two slave girls. Hatib's preaching resulted in their acceptance of Islam. Maria the Copt was one of these two girls.[1] When Hatib returned in 7H, Maria was taken by the Prophet (pbuh). She gave birth to the Prophet's son, Ibrahim, in Dhi al-Hijja 8H. The Prophet (pbuh) held an *aqiqa* ceremony for Ibrahim on the seventh day of his birth, had his hair shaved and gave charity silver equal to his weight. Eighteen months later Ibrahim died.[2] Lady Maria passed away in 16H when Umar was the reigning caliph, he announced her death and led her Funeral Prayer. She lies buried in Baqi Cemetery.[3]

Muqauqis had sent the following gifts: One thousand *mithaqal* of gold, twenty pieces of fine cloth, a mule (Duldul)[4], a donkey (Afeer/Yafoor) and a slave Mabur who was Lady Maria's cousin. Mabur had accompanied the two girls.[5] Bazzar's report adds that a

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[1] *Sira* writers maintain that the other slave girl was Sirin, Mary's sitster, who was entrusted to Hassan ibn Thabit. She gave birth to his son, Abd al-Rahman (Tabari, 3, 21; Ibn Abd al-Barr, *al-Ist'ab* 4,410-413). Ibn Athir refers to another slave girl which the Prophet (pbuh) gave to Abu Jahm ibn Hudhaifa, (see *Usud al-Ghaba* 1, 432-433.) According to Waqidi and Abu Naim he had sent four slave girls. (see *Usud al-Ghaba* 7,261) and Ibn Kathir, *Sira* 4,600).

[2] Ibn Athir, *Usud al-Ghaba* 1, 49.

[3] Ibn Abd al-Barr, *al-Ist'iab* 4,410-413.

[4] Ibn Athir informs us that after the Prophet's demise Duldul was used by Ali and then by Hasan and Hussain, and later Muhammad ibn al-Hanafiya, see *Usud al-Ghaba* 1, 37. In other words, this mule survived for a long time. Ibn al-Hanafia fed him a diet of wheat: see Ibn Kathir, *Sira* 4, 60. Tabari reports that it survived until Mu'awiya's reign, see *Tarikh al-Rusul wa al-Muluk* 3, 174.

[5] He embraced Islam after arriving in Madinah. See, Ibn Hajar, *al-Isaba* 4,404-405. Some initial rumours about his conduct proved to be false

glass tumbler 'Qadah Qwarir' was also sent, which the Prophet (pbuh) used for drinking water. [1] Tabrani states, on Lady Aishah's authority, that the Prophet (pbuh) also received from the Egyptian the gifts of a kohl case, mirror and comb.[2] It is not certain whether all these gifts were brought by Hatib or there was some other agency as well.

Bilal used to look after the household expenses of the Prophet (pbuh). He reports that he used to take a loan for the same, whenever there was a need. A polytheist also lent him money. Once, however Bilal was told that unless the loan was repaid within the due date, (which was 4 days thence) he would be made to graze the polytheists's goats. Bilal recounts this as follows: "The Prophet (pbuh) directed me to borrow money from some tribes who had accepted Islam and repay the loan. When I was ready to leave, the Prophet (pbuh) sent for me and happily told me that the ruler of Fadak had sent him four camel loads of presents, which included grain and cloth.[3] The Prophet (pbuh)

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at a later date. See, Tabari, *Tarikh al-Rusul* 3, 172 and Ibn Abd al-Barr, *al-Isti'ab* 4,410-413.

[1] Ayni, *Umdatul Qari* 11, 74.

[2] Ibid.

[3] Fadak was a Jewish settlement, with oasis and springs. It was three journey stages away from Madinah. The incident under discussion occurred before it fell to Muslims. After the Conquest of Khyber, its inhabitants promised to move out. Thus the Muslims captured it without engaging in battle. Being *fay* it was in the Prophet's possession and its income was used for the living expenses of his family and for public welfare. After his demise, Fatima demanded it of Caliph Abu Bakr. He reminded her of the Prophet's dictum that Messengers of Allah do not have any heirs. Whatever they leave behind is spent on charity. Those supported by the Prophet (pbuh), he promised, would continue to be helped by the public treasury. During Caliph Umar's reign, Abbas and Ali raised this issue again. His reply was the same as that of Abu Bakr. This incident is reported extensively in Hadith works. See Bukhari, *Kitab al-Jihad* and Abu

then directed me to repay the loan out of the same. This I did. The Prophet (pbuh) also commanded that the rest of the goods be distributed among the needy. Since it was late at night, it could not, however, be distributed. The Prophet (pbuh) stayed in the mosque and went home only after its distribution."[1]

Anas reports that Malik Dhi Yazan[2] presented to the Prophet (pbuh) an expensive suit, which he had bought for the price of 30 camels. This the Prophet (pbuh) accepted.[3] Ishaq ibn Abdullah bin Harith adds that the Prophet (pbuh) bought a suit for the price of 20 camels and sent it as a gift to Malik Dhi Yazan.[4]Dahya Kalbi recounts: "I had given as a present a shirt and socks to the Prophet (pbuh) which he used until these were worn out. He did not ask whether these socks were made of the leather of a lawful animal."[5]

One of the Prophet's swords was called Dhu al-Fiqar.[6] Tabarani informs us, on Ibn Abbas's authority,

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Dawud, *Kitab al-Kharaj*. For further details and for a study of the fallacious Shia stance on it, see *Fath al-Bari* 6, 198-209 and Ibn Kathir, *Sira* 4, 566-578.

[1] Abu Dawud, *Kitab al-Kharaj*.

[2] Yazan is introduced as a valley in Yemen in *Qamus*. Dhu Yazan was a Himaryite king who had extended his control over this valley. Ibn Manzur and Ibn Kalbi credit him with having produced daggers for the first time. *Lisan al-Arab*.

[3] Abu Dawud, *Kitab al-Libas*. Some Hadith scholars contest the credentials of its narrator, Ammara Zadhan. See, Shamsul Haq, *Awn al-Mabud* 4, 79.

[4] Abu Dawud, *Kitab al-Libas*. This a mursal report. See *Awn al-Mabud* 4, 79.

[5] Dahiya Kalbi was a leading Companion. Reports indicate that, at times, Gabriel assumed his form when he visited the prophet (pbuh) for delivering divine revelation. He was deputed as an emissary, in 6H, to the then Roman king. *Usud al-Ghaba* 2, 158. As pointed out by Ayni, this incident happened before his acceptance of Islam: see, *Umdatul Qari* 11, 74.

[6] Ibn Athir, *Usud al-Ghaba* 1, 37.

that Hajjaj ibn Allat had gifted this to him.[1] Abu Said Khudri states that the Roman king had sent a pot containing dried ginger which the Prophet (pbuh) distributed among his companions.[2] Negus, the ruler of Abyssinia presented him with a mule which he usually rode.[3] Jabir adds that Negus also sent the Prophet (pbuh) a special variety of perfume which he had not used before.[4]

The Prophet's acceptance of a Jewish woman's meal invitation

The above reports relate to kings and rulers. It is also on record that the Prophet (pbuh) accepted the gift of a non-Muslim woman who belonged to the enemy camp. Her motive in giving this gift, all the more was criminal. When peace resumed after the Battle of Khyber, Zaynab bint al-Harith enquired, which part of the goat's meat was most liked by the Prophet (pbuh). On learning about his preference for shoulder, she roasted some but not before having poisoned it. She then injected more poison into the shoulder meat and presented it to the Prophet (pbuh). As soon he took it, he spat it out, saying to the Companions that thin bone has informed me that it has been poisoned and, hence, they should not eat it. One of his Companions, Bashr

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[1] Ibn Adi dismisses this as a weak report. See, *Umdatul Qari* 11, 74. Ibn Sa'd and Tabari state that this sword belonged to Manba ibn Hajjaj, which he received as his share of the booty following the Battle of Badr: see Tabari, Tarikh al-Rusul 3,177. Ibn Qayyim endorses this account: *Zad al-Ma'd* 1, 130.

[22] Ayni, *Umdatul Qari* 11,74

[3] Ibn Qayyium, *Zad al-Ma'd* 1,134

[4] Ayni affirms Negus's acceptance of Islam. However, it is not clear whether this had happened before his acceptance of Islam. Since Negus was the title belonging to kings, the allusion could be to an earlier Negus who had not become Muslim. Ayni, *Umdatul Qari* 11, 73.

ibn Bara had, however, eaten one morsel and he subsequently died of the poison. When the Prophet (pbuh) gathered the Jews together and asked them to explain this misdeed, they confessed to the crime. When the Jewish woman herself was interrogated, she stated: "You have defeated and subdued my people. I reasoned that if you are only a worldly king, your death would please me immensely. However, if you are a Prophet (pbuh), you would be informed of the poison." This poison did, however, have an effect on him, and during his final illness, the Prophet (pbuh) mentioned it. Yet, as Ibn Hisham states, the Prophet (pbuh) pardoned the woman.[1]

Correct interpretation of a relevant *Hadith*

In contrast to the above-mentioned reports, a few others indicate that the Prophet (pbuh) declined to accept gifts from non-Muslims. Iyaz ibn Himar informs us that he had, in his pre-Islamic days presented a camel to the Prophet (pbuh). On being asked, Iyaz confirmed that he had not accepted Islam. The Prophet (pbuh) declined, saying that it was forbidden for him to take gifts from polytheists.[2] Amir ibn Malik who is known as Mulaaib al Asinna, records a report of similar import.[3] However, this is flawed in terms of its chain of narrators. Iyaz's report above is, nonetheless, sound. This apparent contrast with the rest of the rulings is often explained in a variety of ways. Some hold the view that it abrogates the ones which affirm the Prophet's acceptance of gifts from

[1] Bukhari, *Kitab al-Jizya*; Ibn Hisham, *Sira* 3, 389-390. Some reports state that after Bishr's death, his near of kin put her to death in retribution.

[2] Abu Dawud, *Kitab al-Kharaj*, Tirmidhi, Abwab al siyar

[3] *Fath al-Bari* 5,230

polytheists. However, others point out that reports affirming the acceptance of gifts from polytheists on the Prophet's part abrogate the one that disallow it. Both claims are unsubstantiated. It is essential for an abrogating report to appear after the report which is claimed to have been abrogated. In the issue under discussion, this is not proved.

Some opine that only the Prophet (pbuh) was allowed to accept such gifts; Muslims, by and large, are not to accept them. However, there is no argument to support this contention. Unless it is otherwise specified, the Prophet's practice is to be emulated by all Muslims for all time.

Imam Khattabi points out that the above hadith forbids only gifts from polytheists. The Prophet (pbuh) had taken gifts from Negus who was a Christian. The Shariah does distinguish between the people of the Book and polytheists with regard to some commands. This is an instance of the same.[1] Again, though, it is not a convincing proposition, for the reports categorically speak of his acceptance of gifts from polytheists.

The standard position on the issue, as held by the majority of scholars is that the Prophet (pbuh) always considered the interests of Islam and Muslims over & above everything else. He accepted in this respect the gifts of those, who could be drawn closer to Islam. Accordingly he accepted these and reciprocated in kind. At times, when this consideration was absent, he declined such gifts.[2]

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[1] Khattabi, *Maalim al-Sunan* 3, 41.

[2] Nawawi, *Sharh Muslim* 4,114, *Fath al-Bari* 5,231.

Testimony rendered by non-Muslims

The following questions are worth-studying: can non-Muslims act as witnesses in matters relating to Muslims? Will their testimony be accepted in all or just specific matters or conditions? These questions are central to the issue of Muslims' relations with non-Muslims. Let us, therefore, explore the same at some length.

Bequests made during a journey

The testimony by non-Muslims, as it features in the Qur'an, has a particular context:

يَٰٓأَيُّهَا ٱلَّذِينَ ءَامَنُوا۟ شَهَٰدَةُ بَيْنِكُمْ إِذَا حَضَرَ أَحَدَكُمُ ٱلْمَوْتُ حِينَ ٱلْوَصِيَّةِ
ٱثْنَانِ ذَوَا عَدْلٍ مِّنكُمْ أَوْ ءَاخَرَانِ مِنْ غَيْرِكُمْ إِنْ أَنتُمْ ضَرَبْتُمْ فِى ٱلْأَرْضِ
فَأَصَٰبَتْكُم مُّصِيبَةُ ٱلْمَوْتِ ۚ تَحْبِسُونَهُمَا مِنۢ بَعْدِ ٱلصَّلَوٰةِ فَيُقْسِمَانِ بِٱللَّهِ إِنِ
ٱرْتَبْتُمْ لَا نَشْتَرِى بِهِۦ ثَمَنًا وَلَوْ كَانَ ذَا قُرْبَىٰ ۙ وَلَا نَكْتُمُ شَهَٰدَةَ ٱللَّهِ إِنَّآ إِذًا لَّمِنَ
ٱلْءَاثِمِينَ ﴿١٠٦﴾ فَإِنْ عُثِرَ عَلَىٰٓ أَنَّهُمَا ٱسْتَحَقَّآ إِثْمًا فَءَاخَرَانِ يَقُومَانِ مَقَامَهُمَا مِنَ
ٱلَّذِينَ ٱسْتَحَقَّ عَلَيْهِمُ ٱلْأَوْلَيَٰنِ فَيُقْسِمَانِ بِٱللَّهِ لَشَهَٰدَتُنَآ أَحَقُّ مِن شَهَٰدَتِهِمَا
وَمَا ٱعْتَدَيْنَآ ۖ إِنَّآ إِذًا لَّمِنَ ٱلظَّٰلِمِينَ ﴿١٠٧﴾ ذَٰلِكَ أَدْنَىٰٓ أَن يَأْتُوا۟ بِٱلشَّهَٰدَةِ عَلَىٰ وَجْهِهَآ
أَوْ يَخَافُوٓا۟ أَن تُرَدَّ أَيْمَٰنٌۢ بَعْدَ أَيْمَٰنِهِمْ ۗ وَٱتَّقُوا۟ ٱللَّهَ وَٱسْمَعُوا۟ ۗ وَٱللَّهُ لَا يَهْدِى
ٱلْقَوْمَ ٱلْفَٰسِقِينَ ﴿١٠٨﴾ (المائدة)

O Believers! When death approaches any of you (take) witnesses among yourselves when making bequests – two just men of your own (brotherhood) or others from outside, if you are journeying through the earth, and the chance of death befalls you. If you doubt (their truth), detain them both after prayer, and let them both swear by Allah: "We wish not in this for any worldly gain, even though (the beneficiary) be our near relation: we shall not hide the evidence before Allah. If we do, then behold! The sin be upon us. But if it gets known that these two were guilty of the sin of (perjury), let two others stand forth in their places- nearest in kin from among those who claim a lawful right. Let them swear by Allah: "We affirm that our witness is truer than that of those two, and that we have not trespassed. If we did, behold! The wrong be upon us. That is most suitable that they may give evidence in its true nature and shape, or else they would fear that other oaths would be taken after their oath. But fear Allah, and listen (to His counsel). For Allah does not guide rebellious people. (al-Maidah 5:106-108).

This passage may be summarized thus: if a Muslim on a journey is approached by death, and he intends to make a bequest regarding his belongings or any matter, he should take two just Muslims or two non-Muslims as a witness to his bequest. If the deceased's heirs have no objection, his bequest will be implemented. However, if they do not trust these two witnesses, the latter should say on oath the truth of their statement and that they have not told any lie for some worldly gain. It is reflective of the Shariah principle that the burden of proof is on the claimant. If he fails to produce this, the defendant has to take an oath. In this case, heirs represent the claimant and witnesses are defendants. However, if heirs allege that some item in the possession of witnesses belongs to

the deceased and the witnesses claim that they had bought it, their roles are reversed. For, they will have to prove their purchase of that item. If they fail to do so, the heirs will be directed to take an oath about their charge. Then that item will be restored to them.[1]

Can a non-Muslim serve as a witness?

Qur'anic scholars have raised a number of points in light of this passage. As to the clause, 'two just men of your own or others' some interpret this as two just members of one's own family, otherwise two from outside the family. This is the stance adopted by Ikrimah, Ibn Sirin and Zuhri. Hasan Basri explains it thus:

اِثْنَانِ ذَوَا عَدَلٍ مِّنْكُمْ أى من عشيرته اَوْ اٰخَرَانِ مِنْ غَيْرِكُمْ أى من غيرعشيرته۔

"The two just witnesses from among yourselves stand for two members of one's tribe and the other two for those outside one's tribe. For them, these witnesses, of either category, should be Muslim. A non-Muslim is not recognized as a witness."[2]

Among later day exegetes, Zamakhshari is also in support of this stance on the grounds that one's family members can better appreciate the context of a bequest. Moreover, they will have more sincerity towards the deceased and, hence, they are to be preferred. In their absence, others may serve as witnesses.[3] Abu alSaud endorses the same.[4] Jassas, however, points out that the passage makes no

[1] Jassas, *Ahkam al-Qur'an* 601-602.
[2] Tabari, *Tafsir* 11, 166-168.
[3] *Al-Kashshaf* 1, 650.
[4] Abu Sa'ud, *Irshad al-Aql al-salim* 4, 202.

reference in the preceding or following verses to one's family. Therefore, the allusion is not restricted to one's family or tribe.[1]

Is the testimony of only the people of the Book admissible?

In the opinion of Ibn Abbas, Abu Musa Ashari, Said ibn Mussayab, Qazi Shuraih, Ibn Sirin, Awzai, Tahwri and Ahmad, the second category of witness refers to the people of the Book. For them, if Muslims are not present, a travelling Muslim on the verge of death may make a bequest using two witnesses from the people of the Book.[2] This view is borne out by reports on the circumstantial setting of the Quranic passage in question.

Ibn Abbas provides the following background information: Budail or Bujail a member of Banu Saham, who had recently embraced Islam went on a journey with Tamim Dari, who was then a Christian and Adi ibn Badda, Budail died at a place where there were no other Muslims. Before his death he handed over his personal belongings to these two persons requesting that these be given to his family. Tamim says that they had retained unlawfully some of his belongings. "He had left behind a silver bowl, with golden engravings, which was his most valuable possession. We sold it for one thousand dirham and distributed the amount between ourselves. We returned the rest of his belongings to his family." The bereaved family noted that the expensive bowl was missing. Some reports indicate that Budail had enclosed a list of items which he had entrusted to these persons. The

[1] Jassas, *Ahkam al-Qur'an* 2, 597
[2] Ibn Hajar, *Fath al-Bari* 5,413; Tabari, *Tafsir* 11,160.

bowl figuring in the list was not restored to the family. The case was reported to the Prophet (pbuh). Against this backdrop, the Qur'anic verses in question were revealed. On being interrogated, both pleaded ignorance and they said so on oath. However, the bowl was soon spotted in Makkah.[1]

During the governorship of Abu Musa Ashari, a Muslim was overtaken by death at Waquqa, a town in Iraq. Unable to find any Muslim there, he took two witnesses from among the people of the Book. They called on Abu Musa, informed him of that Muslim's death and his bequest and returned the things they had in his possession. Thereupon, Haz. Abu Musa Asharió said that a similar incident had happened during the Prophet's lifetime. After *Asr* prayer he asked the two of them to state on oath that they had not committed any cheating or told a lie or tampered with the bequest. Thus, both of them and Abu Musa executed the deceased's bequest.[2]

Other non-Muslims' testimony is equally valid

Some classical authorities, namely Said ibn Jubayr, Mujahid, Ibn Sirin, Ibn Zayd and Ubaida ibn Arm are of the view that the Qur'anic allusion to two witnesses from outside is not specific to the people of the Book. Rather, it refers to all non-Muslims.[3] Tabari seconds this opinion, stressing that Allah did not mention any specific group on this count. The general expression embraces everyone outside the fold of

[1] Bukhari, Kitab al-wasaya Fath al-Bari: 5/410,411, Tirmidhi: Abwab al Tafseer Surah al Maidah, Abu Dawood: Kitab al Qaza.

[2] Abu Dawud, *Kitab al-Qada*.

[3] Tabari, *Tafsir* 11, 163-166.

Islam, be they Jews, Christians, Zoroastrians or idolators. This view is the more credible.[1]

Can non-Muslims serve as witnesses only when a Muslim is not available?

Some interpret the Qur'anic command of using witnesses on a journey in the sense of exercising a choice between two just Muslims or two non-Muslims. However, the standard view is that it is not a matter left to one's discretion. One may have non-Muslims as witnesses if Muslims are not around.[2]

Is a non-Muslim's testimony acceptable only during a journey?

Those who accept non-Muslims as witnesses on a journey unanimously hold the view that this allowance is specifically for a journey. Otherwise, their testimony is unacceptable. While at home, a Muslim cannot the non-Muslims as witnesses, as Muslims are present. Only during a jorney when one may not find Muslims is it appropriate to use non-Muslims as witnesses. Qazi Shuraih presses home the above point, stressing that such testimony is admissible only on a journey and must relate only to a bequest.[3] Abu Musa Ashari subscribes to the same. Khattabi elaborates:

فيه دليل على أن شهادة أهل الذمة مقبولة على وصية المسلم فى السفر خاصة.

"Dhimmis' testimony is acceptable specifically in the context of a journey and bequest."

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[1] Ibid., 11, 169.
[2] Mawardi, *al-Nukat wa al-Uyan* 1, 494.
[3] Tabari, *Tafsir* 11,163

This view is shared by Qadi Shuraih, Ibrahim Nakhai and Awzai.[1]

The broad meaning of bequest

The Qur'anic term bequest is very broad in its range. Included in it are: a sale deed and loan, agreement, gift and charity. Jassas point out that Allah does not speak of any particular variety of bequest. It may be taken in its broad, general sense.[2]

After which Prayer is the oath to be taken?

If witnesses have to take an oath relating to a bequest, the Qur'an directs that it be done after Prayer. Some opine that it should be conducted after *Asr* Prayer, no matter whether these witnesses are Muslim or non-Muslim. This because supplications are likely to be accepted at this hour and it might ensure a large gathering. Ibn Jarir prefers this view. Some, however, are of the opinion that while Muslim witnesses may so act after Asr Prayer, a non-Muslim may take an oath after his hour of worship. The latter should be told that if they give false testimony, they will face punishment and be stigmatized by their own community.[3]

Are these verses of Surah al-Maidah abrogated?

Among Jurists, Ibrahim Nakhai, Abu Hanifa, Malik and Shafii regard the Qur'anic verses in question as abrogated. For them, the Qur'anic norm for testimony is as follows, and this features the context of a loan transaction:

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[1] Khattabi, *Ma'lim al-Sunan* 4,171.
[2] Jassas, *Ahkam al-Quran* 2,598
[3] Tabari, *Tafsir* 11, 175-176; Raazi *al-Tafsir al-Kabir* 3, 477.

وَاسْتَشْهِدُوا شَهِيدَيْنِ ... مِمَّنْ تَرْضَوْنَ مِنَ الشُّهَدَاءِ (البقرة:٢٨٢)

"And get two witnesses ... such as you choose..."
(al-Baqarah 2:282)

This specifies that Muslims should have witnesses of their own choice. Non-Muslims cannot be chosen in view of their unbelief. Hence, their testimony would not be acceptable. At another place too, the Qur'an instructs:

وَأَشْهِدُوا ذَوَيْ عَدْلٍ مِّنْكُمْ (الطلاق:٢)

"And take for witness two persons from among you, endued with justice..." *(al-Talaq 65:2).*

The command is unmistakable: the witness should be Muslim and just. It is the consensus view that a transgressing Muslim's testimony cannot be accepted. Given this, an unbeliever's testimony is all the more unacceptable.

Abu Musa Ashari, Abdullah Ibn Masud and Ibn Abbas contest this stance and insist that the command contained in surah al-Maidah is categorical. While travelling, if Muslims are not around, non-Muslims may be taken as witnesses to one's bequest. Said ibn Mussayib, Shuraih, Yahya bin Ya'amar, Saub bin Jubair, Abu Mujlez, Ibraheem Nakhi; Ubaidhah Salmani, and Ibn Sirin subscribe to the same view.[1] Others supporting this stance include Sufyan Thawri and Abu Ubaid Qasim ibn Salam. Imam Ahmad Maintains:

شهادة أهل الذِّمَّة جائزة علَى المسلمين فى السَّفر عنْد عدم المسلمين-

[1] As already stated, it is debatable whether this applies to just the people of the Book or to everyone.

During a journey, "Dhimmis' testimony regarding a Muslim's case is admissible, if Muslims are not present."[1]

The idea that this verse has been abrogated has been countered by arguing that Surah al-Maidah, was revealed in the last year of the Prophet's life and, hence, these verses cannot be abrogated by Surahs *Baqarah* and *al-Talaq*, revealed much earlier, which direct that Muslims be taken as witnesses. Jassas counters this, asserting that while Surah *al-Maidah* itself might have been revealed later, the particular verses of *al-Baqarah* might, however, have been revealed even later than that. However, this is not a clinching argument. For Jassas himself acknowledges, in view of reports by the Prophet (pbuh) and some Companions, that Surah *al-Maidah* is the last surah and that none of the commands contained in it are abrogated, as is evident from the following: Dhamara ibn Jundub and Atiya ibn Qays relate that the Prophet (pbuh) said that Surah *al-Maidah* was revealed at the end. Its description of what is lawful and unlawful is final. The same point was reiterated by Aishah and Hasan Basri. Abu Maysra affirms that 18 commandsfeature in Surah *al-Maidah* and none of these have been abrogated.[2]

According to Qurtubi, the two principles of abrogation are: the presence of the abrogating command and an irreconcilable difference between the abrogating and the abrogated commands. The verses cited as abrogating ones contain a general ruling on testimony whereas Surah al-Maidah deals with a

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[1] Qurtubi, *Al-Jami li Ahkam al-Qur'an* 6, 349-350; Ibn Qudama, al-Mughni 9, 182, *Fath al-Bari* 5,412.

[2] Jassas, *Ahkam al-Qur'an* 2, 598.

particular situation. Therefore, the two are not contradictory. No Companion is on record as considering any command contained in Surah al-Maidah as abrogated. In contrast, we have 3 Companions who assert that these commands have not been abrogated. Their assertion, therefore, cannot be disregarded. Rather, it is of crucial significance. These verses make allowance for taking non-Muslim witnesses on a bequest during a journey, when Muslims are not present. In such as exigency, general commands are alterable. Qurtubi concludes:

ربما كان الكافر ثقة عند المسلم و يرتضيه عند الضرورة-

"At times, a Muslim may look upon an unbeliever as reliable and credible and he may choose him as a witness."[1]

Imam Razi too does not concur with the idea that the verses of *al-Maidah* have been abrogated. The command outlined in these covers a particular situation. The Shariah allows the use of even forbidden items, if it is a necessity to so use them. The Shariah commands also make several allowances for various exigencies. Take the following as illustrative: *tayammum* in place of *wudu* for prayer, during a journey; missing Ramadan fasts in certain situations and partaking even of dead meat, if one is starving to death. In the issue under discussion, there is a particular exigency. If a Muslim traveler is unable to obtain a Muslim as a witness to his bequest, it therefore, becomes necessary for him to have a non-Muslim as witness. Without such a facility, the situation may even be more harmful if it were left unattended, It is possible, for example, that he may

[1] Qurtubi, *Al-Jami li Ahkam al-Quran* 6,349-350

have some outstanding expiation or zakah, trust or loan. If a non-Muslim is not allowed as a witness, then the Muslim in question may not be able to discharge his obligations. A non-Muslim's testimony in the above context is akin to a woman's testimony about menstruation, pregnancy, delivery, still birth and other matters specific to women. Since men cannot gain first-hand knowledge in such situations, they rely on a women's testimony. In sum, the above command about non-Muslims as witnesses cannot be treated as abrogated. Moreover, Muslims generally hold that Surah *al-Maidah* was revealed towards the end of prophet-hood and that its commands have not been abrogated.[1] Among Hanafi jurists, Tahawi does not regard them as abrogated.[2] Indeed, there is no compelling reason to think any of them have been.

A non-Muslim as a witness for another non-Muslim

This issue has a bearing on the point about whether non-Muslims may be taken as witnesses with regard to matters concerning Muslim. Moving on, let us examine whether a non-Muslim's testimony can be accepted in a case related to another non-Muslim. Imam Shafi and Malik maintain that a *dhimmi's* testimony is inadmissible, whether the case involves Muslims or non-Muslims. However, Shabi, Ibn Abi Layla and Ishaq ibn Rahwiya admit this in cases involving members of the same faith community. For example, a Jew may be a witness in a case involving another Jew. Yet his testimony involving a Christian or zoroastrain would be unacceptable. Zuhri upholds the same view. For him, the rationale behind this is that

[1] Raazi, *al-Tafsir al-Kabir* 3,476.
[2] Ayni, *Umdatul Qari* 11,310.

these faith communities are bitterly hostile to one another and so cannot be expected to act justly and fairly. Hanafis, however, look upon all unbelievers as alike and hence, their testimony about one another is acceptable; without any reservation whatsoever.[1] Yet it is affirmed in *Hedaya*, the authentic Hanafi work on *fiqh*, that a *dhimmi's* testimony is not to be entertained regarding Muslims. They may act as witnesses in cases involving other non-Muslims, no matter to which faith they belong.[2] For instance, a Jew's testimony in a case involving a Christian or a Christians testimony in a case involving a Jew would be admissible in court.

Allamah Abu Bakar Jassas's contention is that the verses of *al-Maidah* reveal that *dhimmis* may be taken as witnesses regarding a Muslim's bequest. Since it is so, they are all the more fit as witnesses for cases involving a non-Muslim's bequest. Surah *al-Baqarah*, nonetheless, lays down that a non-Muslim's testimony is unacceptable in a case involving a Muslim. However, his testimony regarding another non-Muslim is admissible. Those jurists who entertain a *dhimmi's* testimony for traveller's bequest accept them as witnesses for other matters as well.[3] Jabir points out:

إنّ رسولَ اللّه ﷺ أجاز شهادة أهل الكتاب بعضهم على بعض.

"The Prophet (pbuh) upheld the testimony of some members of the people of the book regarding others".[4]

For, it is stated that some Jews filed a case with the Prophet (pbuh), about a Jewish man and woman accused of illicit sex. He asked them to produce four

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[1] Khattabi, *Ma'lim al-Surnan* 4,172.

[2] *Hidaya* 3, 147; *Radad al-Muhtar* 4, 522

[3] Jassas, *Ahkam al-Qur'an* 2, 600; Qurtubi, *Al-Jami li Ahkam al-Qur'an* 6,351.

[4] Ibn Majah, *Abwab al-Ahkam*; *Nasb al-Raya* 4,85

witnesses. After interrogating witnesses and getting convinced of their statements, he had both convicts stoned to death.[1] This stance is adopted by Hanafi jurists, Sufiyan Thawri and some others.[2]

Conditions reliability of a non-Muslim witness

Islam prescribes that justice be an essential quality of a witness. An unjust person's testimony is inadmissible. This raises the question about whether a non-Muslim fulfils the precondition of justice. Can he be taken as just and his testimony be accepted? Ibn Hajr staes:

ان اتصاف الكافر بالعدالة مختلف بيه وهو فرع قبول شهادة فمن قبلها وصفه بها و من لَا فلا۔

"It is debatable whether a non-Muslim can be regarded as just or not. Equally contentious is the issue of his being a witness. Those who accept him as a witness perceive him as one characterized by justice. Those opposed to this viewpoint see him as devoid of justice.[3]

Razi's analysis of the relevant verses of *al-Maidah* is worthsummarising thus: The Qur'anic directive is that two just Muslims be taken as witnesses. This is interpreted in the sense that since an unbeliever cannot be just, his testimony thereby cannot be entertained. Let us emphasize here that the Qur'an does not delve in this instance, into the soundness or otherwise of one's beliefs. The reference is to a person's avoidance of lies and falsehood. This is why the testimony of even those given to innovation is acceptable as long as

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[1] Jassas, *Ahkam al-Qur'an* 2, 601; *Nasb al-Raya* 4,85
[2] Ibn Qudama, *al-Mughni* 9, 184.
[3] *Fath al-Bari* 5,416.

they are not liars, though they are taken as those who have gone astray. By the same token, the testimony of a non-Muslim who is honest and shuns cheating and deceit should be accepted. It is a generalization that a non-Muslim is not just. Notwithstanding this, the particular situation referred to in *al-Maidah*, should be considered as an exception.[1]

Razi's stance, thus, paves the way for entertaining a non-Muslim's testimony on a broader scale.

A non-Muslim's testimony may be accepted in certain situations

Apart from the verses already quoted, the issue of witness/testimony features in the Qur'an in the following contexts as well: 1) witnesses should be taken for a loan transaction among Muslims (verse 282 of *al-Baqara*); 2) as an orphan comes of age and is endowed with sound understanding, his guardian should restore to him his belongings and take witnesses to the same (verse 6 of *al-Nisa*); 3)witnesses for charging someone with fornication and for accusing one's wife of adultery (verses 6 and 9 of *al-Nur*), and 4) two just Muslim witnesses, as one decides to retain or leave his wife after divorce (verse 2 of *al-Talaq*). These verses pertain to Muslims' financial transactions, the rights of orphans and the obligations of their guardians, sexual misconduct and divorce. These issues are directly linked to Muslim society. Muslim witnesses are accordingly mentioned in the above contexts. In such matters involving some act of worship, marriage, divorce or Muslim social life, it is but natural that only Muslims will be taken as

[1] Raazi, *al-Tafsir al-Kabir* 3, 476.

witnesses. However, in certain situations, the testimony of non-Muslims may be inevitable. Since the discussion of classical jurists presupposes an Islamic state, they refer only to *dhimmis'* testimony.[1] In an Islamic state, with Islamic law in force and a majority of Muslim inhabitants, the testimony of non-Muslims may not be needed in most matters. Or it might only be rarely called upon. Yet jurists accept their testimony in certain matters. Ibn Hajr acknowledges the same, referring in particular to some medical issue in which a non-Muslim's testimony has been accepted.[2]

Testimony has a particular status. Jurists hold that non-Muslims' reports may be trusted. In other words, they are recognized as truthful. Hanafi jurists maintain that if a non-Muslim, be he even a Zoroastrian, informs others that he has bought meat from a member of the people of the Book, a Muslim is allowed to eat that meat. On similar lines, if he states that it was bought from a Zoroastrian, a Muslim is not allowed to eat it. For the Shariah allows the former and forbids the latter. What is more important is that this report will not be dismissed on the grounds that it has come from a non-Muslim. ان خبر الكافر مقبول بالأجماع فى المعاملات لا فى الديانات For the standing principle is that it is generally agreed that a non-Muslim's report is to be entertained if it pertains to some business transaction. However, his report about any matter of faith is unacceptable.[3]

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[1] Shawkani, *Nayl al-Awtar* 9,208.
[2] *Fath al-Bari*, 5,413.
[3] *Al-Dur al-Mukhtar* 5, 301-302.

The issue in our own times

In today's world a large number of non-Muslims are settled in most of the Muslim countries and they are so much involved in the political, economic and social matters that Muslims cannot live in isolation from them. Muslims and non-Muslims are interdependent. Given this, their testimony should be accepted. In our opinion, in the light of the above discussion there is room for accepting it.

The other and more important issue is of Muslims living in non-Muslim majority countires. All the matters are decided according to the law of the land. Muslims are compelled to accept non-Muslims' testimony in their transactions, property issues, mutual quarrels and crimes. This is how they can safeguard their interests and seek redressal for their loss. Is their testimony acceptable? In view of the situation obtaining in these countries and for protecting the interest of Muslims there, the testimony of honest and reliable non-Muslims may be accepted in worldly matters like the testimony of a fellow Muslim.

Chapter II

The Islamic State and the Rights of non-Muslims

The Islamic State

The concept of the Islamic State is not of recent origin. The Quran and the Hadith delineate it. The illustrious experts in the areas of Islamic knowledge presented its details in their respective periods. In spite of unanimity on its basic principles, they differed on certain points and advanced arguments favouring their viewpoints. This is an academic aspect. On the practical front, a highly successful version of the Islamic State was put into practice, and people enjoyed the fruits of the experiment for centuries. Nevertheless, the mere mention of the phrase "The Islamic State" gives the opponents quite a start as though alarm bells are being rung and a huge upheaval is about to be unleashed, and so the human species has to be put on alert. Arrows of objections and allegations are shot in quick succession. Islam is an oppressive and totalitarian religion and is incapable of accommodating other ways of life; tolerance and liberalism are conspicuously absent in Islam; it does not allow free thinking and dissent; it holds the flag of violence and aggression up; it spreads its views through compulsion; it does not abide by the universally known principles of justice; in the Islamic State, the rights of non-Muslims are honoured in the breach than in the observance; it is antediluvian and makes no concession to the demands of modern times; culture, art, and performing and fine arts are just anathema to it; it is deplorably regressive.

Government, authority, means of mass and visual communication and powerful facilities of this kind are available to the opponents of Islam and with the help of these facilities the above-mentioned allegations are spread and a blitzkrieg of propaganda is constantly let loose that the Islamic concept of the state is unacceptable in the present times and worst conspiracies are hatched to nip in the bud efforts to establish the Islamic State in some Muslim countries. For this purpose, they do not hesitate to use overt and covert methods and political power too. At that time, the principles of democracy, freedom of thought, tolerance, and justice are conveniently and contemptuously dismissed as though all is fair in saving the world from "the horrifying consequences" of Islam.

In this book, the basic precepts of Islam are presented instead of presenting a direct refutation of the objections raised or the motivating factors behind the objections. These precepts pertaining to non-Muslims make explicit the principled stand of Islam. However, they meet too the objections raised.

A Few Directive Principles of the Islamic State

Some of the goals and objectives for which the Islamic State is brought into existence and the directive principles governing it are being mentioned here so that the readers may comprehend what the Islamic State, in spite of its being opposed tooth and nail, actually espouses and how its contours appear and how it conducts itself towards the non-Muslims .

Establishment of the Rule of Law

Oppression is not of one kind only. It can be of many kinds - social, economic, political, etc. The world has suffered from them and is groaning under them even now. Islam is totally against oppression of every kind and does not countenance it under any circumstance. Moreover, it makes justice binding on its followers and wants it to be the foundation for social reconstruction.

إِنَّ اللهَ يَأْمُرُ بِالْعَدْلِ وَالْإِحْسَانِ وَإِيْتَآئِ ذِي الْقُرْبٰى وَيَنْهٰى عَنِ الْفَحْشَآءِ وَالْمُنْكَرِ وَالْبَغْيِ يَعِظُكُمْ لَعَلَّكُمْ تَذَكَّرُوْنَ ۝٩٠ (النحل)

"Surely Allah enjoins justice, kindness and the doing of good to kith and kin, and forbids all that is shameful, evil and oppressive. He exhorts you so that you may be mindful." *(16:90)*

A synonym for 'adl' (justice) is 'qist'.

قُلْ اَمَرَ رَبِّيْ بِالْقِسْطِ (الاعراف:٢٩)

"Say to them (O Muhammad): My Lord enjoins justice." *(7:29)*

وَاَوْفُوا الْكَيْلَ وَالْمِيْزَانَ بِالْقِسْطِ ۚ لَا نُكَلِّفُ نَفْسًا اِلَّا وُسْعَهَا ۚ وَاِذَا قُلْتُمْ فَاعْدِلُوْا وَلَوْ كَانَ ذَا قُرْبٰى ۚ (الانعام:۱۵۲)

"And give full measures and weigh with justice, We do not burden anyone beyond his capacity." *(6:152)*

These excerpts lay emphasis on the fact that justice should never be dispensed with, even if one's own kith and kin get caught in the process of rendering justice. The same objective is elaborated emphatically.

يٰٓاَيُّهَا الَّذِيْنَ اٰمَنُوْا كُوْنُوْا قَوّٰمِيْنَ بِالْقِسْطِ شُهَدَآءَ لِلّٰهِ وَلَوْ عَلٰٓى اَنْفُسِكُمْ اَوِ الْوَالِدَيْنِ وَالْاَقْرَبِيْنَ ۚ اِنْ يَّكُنْ غَنِيًّا اَوْ فَقِيْرًا فَاللّٰهُ اَوْلٰى بِهِمَا ۣ فَلَا تَتَّبِعُوا الْهَوٰٓى اَنْ تَعْدِلُوْا ۚ وَاِنْ تَلْوٗٓا اَوْ تُعْرِضُوْا فَاِنَّ اللّٰهَ كَانَ بِمَا تَعْمَلُوْنَ خَبِيْرًا ﴿۱۳۵﴾ (النساء)

"Believers! Be upholders of justice and bearers of witness to Truth for the sake of Allah, even though it may be against yourselves or against your parents and kinsmen, or the rich or the poor, for Allah is more concerned with their well-being than you are. (Do not, then, follow your own desires lest you keep away from justice. If you swerve or turn away from the Truth), know that Allah is well-aware of all that you do." *(7:135)*

The topmost priority of the Islamic State is the elimination of oppression and establishment of justice. Islam cannot connive at the presence of injustice, usurpation of rights oppression and tyranny within the territories where it exercises its authority. Its standing order is:

اِنَّ اللّٰهَ يَاْمُرُكُمْ اَنْ تُؤَدُّوا الْاَمٰنٰتِ اِلٰٓى اَهْلِهَا ۙ وَاِذَا حَكَمْتُمْ بَيْنَ النَّاسِ اَنْ تَحْكُمُوْا بِالْعَدْلِ ۭ اِنَّ اللّٰهَ نِعِمَّا يَعِظُكُمْ بِهٖ ۭ اِنَّ اللّٰهَ كَانَ سَمِيْعًۢا بَصِيْرًا ﴿۵۸﴾ (النساء)

"Allah commands you to deliver trusts to those worthy of them; and when you judge, arbitrate with justice. Excellent is the admonition Allah gives you. Allah is All-Hearing All-Seeing." *(4:58)*

While rendering justice, Islam considers it wrong to make a distinction between a friend and a foe. Enemies and friends should be kept on a par while upholding justice and Islam does not permit any deviation in this regard.

يَٰٓأَيُّهَا ٱلَّذِينَ ءَامَنُوا۟ كُونُوا۟ قَوَّٰمِينَ لِلَّهِ شُهَدَآءَ بِٱلْقِسْطِ ۖ وَلَا يَجْرِمَنَّكُمْ شَنَـَٔانُ
قَوْمٍ عَلَىٰٓ أَلَّا تَعْدِلُوا۟ ۚ ٱعْدِلُوا۟ هُوَ أَقْرَبُ لِلتَّقْوَىٰ ۖ وَٱتَّقُوا۟ ٱللَّهَ ۚ إِنَّ ٱللَّهَ خَبِيرٌۢ بِمَا
تَعْمَلُونَ ﴿٨﴾ (المائدة)

"Believers! Be upright bearers of witness for Allah, and do not let the enmity of any people move you to deviate from justice. Act justly, that is nearer to God-fearing. And fear Allah. Surely Allah is Well-aware of what you do." *(5:8)*

According to Islam, the use of force becomes unavoidable when emergency arises in the course of enforcing justice.

لَقَدْ أَرْسَلْنَا رُسُلَنَا بِٱلْبَيِّنَٰتِ وَأَنزَلْنَا مَعَهُمُ ٱلْكِتَٰبَ وَٱلْمِيزَانَ لِيَقُومَ
ٱلنَّاسُ بِٱلْقِسْطِ ۖ وَأَنزَلْنَا ٱلْحَدِيدَ فِيهِ بَأْسٌ شَدِيدٌ وَمَنَٰفِعُ لِلنَّاسِ وَلِيَعْلَمَ
ٱللَّهُ مَن يَنصُرُهُۥ وَرُسُلَهُۥ بِٱلْغَيْبِ ۚ إِنَّ ٱللَّهَ قَوِىٌّ عَزِيزٌ ﴿٢٥﴾ (الحديد)

"Indeed We sent Our Messengers with Clear Signs and sent down with them the Book and the Balance that people may uphold justice. And We sent down iron, wherein there is awesome power and many benefits for people, so that Allah may know who, without even having seen Him, helps Him and His Messengers. Surely Allah is Most Strong, Most Mighty." *(57:25)*

This is how Islam regulates the establishment of justice and puts the individual and the State under an

obligation. Its instructions in this regard are so clear and convincing that no man of reason will ever dare to impugn them. Even after this, if any individual or State deviates from the path of justice, the deviation will be an act of clear defiance and so Islam will steer clear of them.[1]

No sanction of compulsion for the spread of Islam

One pejorative comment is that compulsion and violence are embedded in the genome of Islam. Islam seeks to compel philosophies and ideologies by using force. So, it has taken advantage of political power and reins of government to spread Islam through intimidation.

There were and are many religions and a variety of ideologies and philosophical systems. Everyone of them lays claim to being the pick of the bunch and has a right to make such a claim. Islam makes a claim too that it is the only true religion and desires to reach one and all not by coercion but by persuasion and preaching. It has ordered that supporting evidence, eloquent preaching, and dialogue should be used as instruments for the purpose.

ادْعُ إِلَىٰ سَبِيلِ رَبِّكَ بِالْحِكْمَةِ وَالْمَوْعِظَةِ الْحَسَنَةِ وَجَادِلْهُم بِالَّتِي هِيَ أَحْسَنُ ۚ إِنَّ رَبَّكَ هُوَ أَعْلَمُ بِمَن ضَلَّ عَن سَبِيلِهِ وَهُوَ أَعْلَمُ بِالْمُهْتَدِينَ ﴿١٢٥﴾ (النحل)

"(O Prophet), call to the way of your Lord with wisdom and goodly exhortation, and reason with them in the best manner possible. Surely your Lord knows best who has strayed away from His path, and He also knows well those who are guided to the Right Way."[2]

(16:125)

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[1] On this topic see the author's book "Of the weak, oppressed and Islamic shield" Published by MMI Publishers, New Delhi.

[2] See the writer's Urdu article 'Himat-e-Dawat' Published in monthly Zindagi-e-Nau, New Delhi, April, May, July and August 1987.

To blame an ideology of resorting to intimidation and coercion, when it employs proof and evidence, analysis and comprehension to establish Truth, is nothing but ridiculous because both methods are poles apart. When an ideology is bereft of competence to convince others, it has recourse to coercion when opportunity presents itself. But Islam comes before us with confidence and certainty as it is convinced of its invincibility in the arena of argument and so the issue of coercion is dismissed as irrelevant to discussion.

لَآ إِكْرَاهَ فِي الدِّينِ ۖ قَد تَّبَيَّنَ الرُّشْدُ مِنَ الْغَيِّ ۚ فَمَن يَكْفُرْ بِالطَّاغُوتِ وَيُؤْمِن بِاللَّهِ فَقَدِ اسْتَمْسَكَ بِالْعُرْوَةِ الْوُثْقَىٰ لَا انفِصَامَ لَهَا ۗ وَاللَّهُ سَمِيعٌ عَلِيمٌ ﴿٢٥٦﴾ اللَّهُ وَلِيُّ الَّذِينَ آمَنُوا يُخْرِجُهُم مِّنَ الظُّلُمَاتِ إِلَى النُّورِ ۖ وَالَّذِينَ كَفَرُوا أَوْلِيَاؤُهُمُ الطَّاغُوتُ يُخْرِجُونَهُم مِّنَ النُّورِ إِلَى الظُّلُمَاتِ ۗ أُولَٰئِكَ أَصْحَابُ النَّارِ ۖ هُمْ فِيهَا خَالِدُونَ ﴿٢٥٧﴾ (البقرة)

"There is no compulsion in religion. The Right Way stands clearly distinguished from the wrong. Hence he who rejects the evil ones and believes in Allah has indeed taken hold of the firm, unbreakable handle. And Allah (whom he has held for support) is All-Hearing, All-Knowing. Allah is the Guardian of those who believe. He brings them out of every darkness into light. And those who disbelieve, their guardians are the evil ones, they bring them out of light into all kinds of darkness. These are destined for the fire, and there shall they abide." *(2:256,259)*

إِنَّا هَدَيْنَاهُ السَّبِيلَ إِمَّا شَاكِرًا وَإِمَّا كَفُورًا ﴿٣﴾ (الدهر)

"Surely, We showed him the Right Path, regardless of whether he chooses to be thankful or unthankful (to the Lord)." *(76:3)*

And proclaim:

وَقُلِ الْحَقُّ مِن رَّبِّكُمْ ۖ فَمَن شَاءَ فَلْيُؤْمِن وَمَن شَاءَ فَلْيَكْفُرْ ۚ (الكهف:٢٩)

"This is the Truth from your Lord. Now let him who will, believe; and let him who will, disbelieve." (18:29)

In these verses, it is explicitly stated that the Truth from God is crystal clear and its acceptance and rejection are matters of individual choice, and their consequences are made clear too, so that man is given a chance to arrive at a decision through deep thinking with regard to the consequence he chooses for himself.

Islam is a proselytizing religion. Coercion is out of tune with the temperament of Islam. It holds the view that God has not made man utterly helpless; instead, He has given him freedom of choice. If Allah had wanted, he would have made man totally dependent on Him and no man would then have dared to disobey Him. Allah had not done so. Instead, through His Messengers He distinguished between Truth and non-Truth and granted man unhindered freedom to choose one way or the other. Man's success depends on the right exercise of this freedom; if freedom is exercised unwisely, he may court failure here and in the hereafter. It is to test how man behaves in making a choice and following a line of action that Allah eliminated the element of compulsion in religion. If anyone employs violence and compulsion for the propagation of Islam, he is at cross purposes with Allah. Some verses of the Quran, pertaining to the subject, are quoted below:

وَلَوْ شَآءَ رَبُّكَ لَاٰمَنَ مَنْ فِي الْاَرْضِ كُلُّهُمْ جَمِيْعاً ۚ اَفَاَنْتَ تُكْرِهُ النَّاسَ حَتّٰى يَكُوْنُوْا مُؤْمِنِيْنَ ۝٩٩ (يونس)

"Had your Lord so willed, all those who are on earth would have believed. Will you, then, force people into believing?" (10:99)

وَمَآ اَكْثَرُ النَّاسِ وَلَوْ حَرَصْتَ بِمُؤْمِنِيْنَ ۝١٠٣ (يوسف)

"And most of the people, however much you might so desire, are not going to believe." *(12:103)*

In this regard, Allah's convention and canon are described in these words:

وَلَوْ شَآءَ اللّٰهُ لَجَعَلَكُمْ اُمَّةً وَّاحِدَةً وَّلٰكِنْ يُّضِلُّ مَنْ يَّشَآءُ وَيَهْدِيْ مَنْ يَّشَآءُ ۭ وَلَتُسْـَٔلُنَّ عَمَّا كُنْتُمْ تَعْمَلُوْنَ ۝ (النحل)

"Had Allah so willed, He would have made you all one single community. However, He lets go astray whomsoever He wills and shows the Right Way to whomsoever He wills, surely you shall be called to account regarding what you did." *(16:93)*

The same idea is expressed in another chapter as follows:

وَلَوْ شَآءَ اللّٰهُ لَجَعَلَهُمْ اُمَّةً وَّاحِدَةً وَّلٰكِنْ يُّدْخِلُ مَنْ يَّشَآءُ فِيْ رَحْمَتِهٖ ۭ وَالظّٰلِمُوْنَ مَا لَهُمْ مِّنْ وَّلِيٍّ وَّلَا نَصِيْرٍ ۝ (الشوریٰ)

"If Allah had willed, He could have made them all a single community. But He admits whomsoever He pleases into His mercy. As to those given to wrong-doing, they shall have none as protector or helper." *(42:8)*

Muhammad (unto him be peace and Allah's blessings) was the missionary of Islam beyond compare. In his sacred heart was astir a passionate longing that all servants of Allah should enrich themselves with Islam. It is stated in these verses that Allah has so created this world that there should ever be an unavoidable variety of precepts and practices and people should be free to follow different systems of thought and life-styles. And so, notwithstanding his hallowed longing and holy desire, he is not authorised to compel people to follow the way of life approved and recommended by Allah after eradicating the extant differences among the people. His duty is confined to

make the truth plain and the privilege of guidance is Allah's alone. He guides whomsoever He chooses to guide to the Straight Path; He lets whomsoever He likes to stray and wander in the area of darkness.

This stance on the issue of the acceptance or otherwise of Islam is so reasonable and proper that the stoutest champion of the right to free thinking cannot impugn it. Its status in Islamic jurisprudence and law has been elucidated by the pre-eminent scholar, Allamah Ibne Qudama Humbali, as follows;

"It is not permissible to compel a Dhimmi or a protected (non-Muslim) citizen residing in the Islamic State to accept Islam. If he accepts Islam under duress, that acceptance will not be officially recognized. However, even after the end of the period of helplessness, he follows Islam unswervingly, then his conversion will be recognized as authentic. If he dies in a state of helplessness, it will be presumed that he has not embraced Islam truly and that he died as a non-believer. As a result of compulsion he becomes a Muslim and then becomes an apostate or returns to his own religion, the punishment of apostasy (capital punishment) will not be meted out to him and no force can be employed to make him return to the fold of Islam. Imam Ahmed, Imam Abu Haneefa, and Imam Shafii are of the same opinion. This opinion is backed by the Quran, 2:256, There is no compulsion in religion."[1]

After this discourse, will it still be asserted that Islam has resorted to coercion and intimidation? In the long history of Islam, even if it is proved that someone was indeed guilty of this crime, (though it will not be

[1] Ibne Qudama, Al-Mughni, 12/291,292

so easy to prove,) or if someone is found guilty of it in future, will the guilty one secure the Quran's approval?

Islam and Other Religions

One objection often raised is that Islam takes a hostile stand against other religions. It makes no concession to the religious sentiments of its denigrators and makes aggressive remarks against the august personalities held in high esteem by them. Islam's hostile comments hurt the hearts.

The objection is baseless. Islam preaches monotheism. It finds fault with polytheism and has laid bare its shortcomings. As a consequence, there was a grim struggle with the polytheists of Makkah. In such circumstances, two orders were promulgated. One, do not cast aspersions on the personalities worshipped by the polytheists, even though Islam did not look upon them as objects worthy of worship. It would be extremely indiscreet and counter-productive to provoke and infuriate an opponent by a silly remark of ours on the object of his devotion and thus give him an opportunity to retaliate by abusing Allah.

وَلَا تَسُبُّوا الَّذِينَ يَدْعُونَ مِن دُونِ اللَّهِ فَيَسُبُّوا اللَّهَ عَدْوًا بِغَيْرِ عِلْمٍ ۗ كَذَٰلِكَ زَيَّنَّا لِكُلِّ أُمَّةٍ عَمَلَهُمْ ۖ ثُمَّ إِلَىٰ رَبِّهِم مَّرْجِعُهُمْ فَيُنَبِّئُهُم بِمَا كَانُوا يَعْمَلُونَ ﴿١٠٨﴾ (الأنعام)

"Do not revile those other than Allah whom they invoke because they will revile Allah in ignorance out of spite. For We have indeed made the deeds of every people seem fair to them. Thereafter, they will return to their Lord, and He will inform them of what they have done". *(6:108)*

Two, opponents may continue to use the language of abuse, sarcasm and ridicule but Muslims should eschew such language and tenor. If a reply were to be

given, it should be polite and courteous. In response to their unparliamentary language, we should use flawless language. Provocative language should be met with a cultured and decent language. One should try to win hearts through beautiful conduct.

وَلَا تَسْتَوِي الْحَسَنَةُ وَلَا السَّيِّئَةُ ادْفَعْ بِالَّتِي هِيَ أَحْسَنُ فَإِذَا الَّذِي بَيْنَكَ وَبَيْنَهُ عَدَاوَةٌ كَأَنَّهُ وَلِيٌّ حَمِيمٌ ﴿٣٤﴾ وَمَا يُلَقَّاهَا إِلَّا الَّذِينَ صَبَرُوا وَمَا يُلَقَّاهَا إِلَّا ذُو حَظٍّ عَظِيمٍ ﴿٣٥﴾ (حٰمٓ السجدة)

"Good and evil are not equal. Repel (evil) with that which is good, and you will see that he, between whom and you there was enmity, shall become as if he were a bosom friend (of yours). But none attains to this except those who are steadfast; none attains to this except those with mighty good fortune." *(41:34,35)*

That religion which does not permit its followers to denigrate the protagonists worshipped by its opponents and orders them to perform the duty of propagating the message of Islam from the highest and unsurpassed level of morality is being accused of hurting the religious sentiments of others. How strange!

Islam's Conduct towards People of the Book (Jews and Christians)

The Exalted Quran has addressed the Jews and the Christians directly too, in addition to the polytheists. To a large extent Islam shared basic beliefs in common with them. They believed in God, Prophet and hereafter. They had scriptures but there was a large-scale interpolation in them. Islam's conduct towards the Jews and the Christians was as follows.

Islam made it obligatory that we should believe in all the Prophets who came into this world and to reject even one true Prophet rendered the rejecter a clear unbeliever. On this issue the standpoint of Allah's Messenger (May Allah bless and greet him) and his followers is described in the Quran thus.

اٰمَنَ الرَّسُوْلُ بِمَآ اُنْزِلَ اِلَيْهِ مِنْ رَّبِّهٖ وَالْمُؤْمِنُوْنَ ۭ كُلٌّ اٰمَنَ بِاللّٰهِ وَمَلٰۗىِٕكَتِهٖ وَكُتُبِهٖ وَرُسُلِهٖ ۣ لَا نُفَرِّقُ بَيْنَ اَحَدٍ مِّنْ رُّسُلِهٖ ۣ (البقرة:٢٨٥)

"The Messenger believes, and so do the believers, in the guidance sent down upon him from his Lord, each of them believes in Allah, and in His angels, and in His Books, and in His Messengers. They say, "We make no distinction between any of His Messengers". (2:285)

In another context, the opposite conduct is described as the conduct of unbelief and a warning of chastisement in the hereafter is administered and, simultaneously, praise is heaped on those who do not discriminate between Prophets and a promise is made that Allah will reward them.

اِنَّ الَّذِيْنَ يَكْفُرُوْنَ بِاللّٰهِ وَرُسُلِهٖ وَيُرِيْدُوْنَ اَنْ يُّفَرِّقُوْا بَيْنَ اللّٰهِ وَرُسُلِهٖ وَيَقُوْلُوْنَ نُؤْمِنُ بِبَعْضٍ وَّنَكْفُرُ بِبَعْضٍ ۙ وَّيُرِيْدُوْنَ اَنْ يَّتَّخِذُوْا بَيْنَ ذٰلِكَ سَبِيْلًا ۝ اُولٰۗىِٕكَ هُمُ الْكٰفِرُوْنَ حَقًّا ۚ وَاَعْتَدْنَا لِلْكٰفِرِيْنَ عَذَابًا مُّهِيْنًا ۝ وَالَّذِيْنَ اٰمَنُوْا بِاللّٰهِ وَرُسُلِهٖ وَلَمْ يُفَرِّقُوْا بَيْنَ اَحَدٍ مِّنْهُمْ اُولٰۗىِٕكَ سَوْفَ يُؤْتِيْهِمْ اُجُوْرَهُمْ ۭ وَكَانَ اللّٰهُ غَفُوْرًا رَّحِيْمًا ۝ (النساء)

"There are those who disbelieve in Allah and His Messengers and seek to differentiate between Allah and His Messengers, and say, "We believe in some and deny others", and they seek to strike a way between the two. It is they indeed they, who are beyond all doubt, unbelievers, and for the unbelievers We have prepared a humiliating chastisement. For those who believe in

Allah and His Messengers, and do not differentiate between them, We shall certainly give them their reward. Allah is All-forgiving, All-Compassionate
(4:150-52)

Islam just did not stop with making it theoretically compulsory to subscribe to a belief in all Allah's Messengers but went on to extol in detail their message and mission, their struggles and sacrifices in the course of their mission, their love and sympathy for humankind. Islam removed many blemishes and shortcomings which their foes and sometimes their followers had heaped on their personal profiles and, as a result, they emerged as unblemished and many-splendoured personalities. Islam bore testimony to their righteousness and piety. The Prophet (May Allah bless and greet him) and through him his followers were ordered to follow in their illustrious footsteps.

أُولَٰئِكَ الَّذِينَ هَدَى اللَّهُ فَبِهُدَاهُمُ اقْتَدِهْ ۗ (الأنعام:٩٠)

"(O Muhammad), those are the ones Allah guided to the Right Way. Follow then their way." (6:90)

In the same way, Islam corroborated the Scriptures that Allah revealed in different periods. To have belief and certitude in them became an integral part of faith. A person's faith in Islam will be reliable only when he confirms the long line of revelation, Prophets and scriptures.

يَا أَيُّهَا الَّذِينَ آمَنُوا آمِنُوا بِاللَّهِ وَرَسُولِهِ وَالْكِتَابِ الَّذِي نَزَّلَ عَلَىٰ رَسُولِهِ وَالْكِتَابِ الَّذِي أَنْزَلَ مِنْ قَبْلُ ۚ وَمَنْ يَكْفُرْ بِاللَّهِ وَمَلَائِكَتِهِ وَكُتُبِهِ وَرُسُلِهِ وَالْيَوْمِ الْآخِرِ فَقَدْ ضَلَّ ضَلَالًا بَعِيدًا ﴿١٣٦﴾ (النساء)

"Believers! Believe in Allah and His Messenger and in the Book He has revealed to His Messenger and in the Book He revealed before. And whoever disbelieves in Allah, in His angels, in His Books, in His

Messengers and the Last Day, has indeed strayed far away." *(4:136)*

The viewpoint of the Quran is that all the Prophets who came to the earth and all the Books which were revealed laid stress on monotheism, refuted belief in plurality of gods, and prohibited worship of and service to anyone other than God. On the basis of this viewpoint, the Quran tells the Jews and the Christians that monotheism is the common ground between them and Muslims and invites them to forge unity for action and to meet the demands of monotheism.

قُلْ يَٰٓأَهْلَ ٱلْكِتَٰبِ تَعَالَوْا۟ إِلَىٰ كَلِمَةٍ سَوَآءٍۭ بَيْنَنَا وَبَيْنَكُمْ أَلَّا نَعْبُدَ إِلَّا ٱللَّهَ وَلَا نُشْرِكَ بِهِۦ شَيْـًٔا وَلَا يَتَّخِذَ بَعْضُنَا بَعْضًا أَرْبَابًا مِّن دُونِ ٱللَّهِ ۚ فَإِن تَوَلَّوْا۟ فَقُولُوا۟ ٱشْهَدُوا۟ بِأَنَّا مُسْلِمُونَ ﴿٦٤﴾ (آل عمران)

"Say: People of the Book! Come to a word common between us and you: that we shall serve none with Him in His Divinity and that some of us will not take others as Lords other than Allah." And if they turn away (from accepting this call), tell them: "Bear witness that we are the ones who have submitted ourselves exclusively to Allah." *(3:64)*

The holy Quran claims that if there is God, and He has maintained a continuity of revelation and the institution of Prophets, then the possibility of its being Allah's Book cannot be summarily ruled out, because it is the last link in the chain and a summing-up of guidance that Allah had always provided to the human species through the agency of His Messengers. In addition, the Quran indicated the deviations from the norm made by the People of the Book, distinguished the Truth from falsehood, projected a clear and transparent concept of monotheism, Prophethood and the hereafter, censured their love for the world, and

praised the honest and upright individuals in their midst, and ordered the Muslims to engage them in a dialogue which should be conducted in a highly cultured manner.

وَلَا تُجَادِلُوٓا اَهۡلَ الۡكِتٰبِ اِلَّا بِالَّتِىۡ هِىَ اَحۡسَنُ ۖ اِلَّا الَّذِيۡنَ ظَلَمُوۡا مِنۡهُمۡ وَقُوۡلُوۡٓا اٰمَنَّا بِالَّذِىۡۤ اُنۡزِلَ اِلَيۡنَا وَاُنۡزِلَ اِلَيۡكُمۡ وَاِلٰهُنَا وَاِلٰهُكُمۡ وَاحِدٌ وَّنَحۡنُ لَهٗ مُسۡلِمُوۡنَ ﴿۴۶﴾ (العنكبوت)

"Argue not with the People of the Book except in the fairest manner, unless it be those of them that are utterly unjust. Say to them: "We believe in what was revealed to us and what was revealed to you. One and the same is our God and your God; and we are those who submit ourselves to Him." *(29:46)*

Can one conjure up a more sober and more reasonable attitude towards religions?!

Jihad and its Regulations

Islamic state, in the eyes of its opponents, is no more than a militant state of yore, which harbours aggressive designs of the worst kind. It will wage a war against the precepts and practices of others and impose its own faith and practice on others by force. It will emerge as a tyrannical state machinery and under it world peace will go to rack and ruin. It is, therefore, by no means acceptable to a modern man.

To substantiate this conclusion, it is asserted that Islam seeks to establish a puritanical state by ordering the use of force and the instrument of Jihad. The most alarming term, in the eyes of the opponents, is Jihad. They think that it refers to forcing Islam on others by brandishing the sword and to beheading anyone who dares to resist.

This concept of the Islamic State in its entirety is nothing but a figment of imagination. It has no bearing upon the reality. Islamic State is not an imaginary thing. The details of such a state are available in the Quran, the Hadith, and the Prophet's biography. History has witnessed its role. The world has experienced its blessings and has benefited by its favours, and is doing so even now.

Now, let us examine if the Islamic State poses a danger to the world in reality. Is it a State that will compel people to fall in line with its ideology? Will it maintain a constant state of war in the name of Jihad and devastate peaceful conditions? Why has it ordered

Jihad at all, and under what conditions, and against whom should it be waged?

Islam is totally Against Anarchy and Bloodshed

The first thing that should be borne in mind and borne ever and anon is that Islam is the name given to authentic faith in Allah, to deep devotion to Him, and to exclusive worship of and service to Him. This dedication to God cannot be in sync with threats and intimidation, bloodshed and barbarism; both are poles apart. The basic message of Islam is:

أَلَا لَهُ الْخَلْقُ وَالْأَمْرُ ۗ تَبَارَكَ اللَّهُ رَبُّ الْعَالَمِينَ ﴿٥٤﴾ ادْعُوا رَبَّكُمْ تَضَرُّعًا وَخُفْيَةً ۚ إِنَّهُ لَا يُحِبُّ الْمُعْتَدِينَ ﴿٥٥﴾ وَلَا تُفْسِدُوا فِي الْأَرْضِ بَعْدَ إِصْلَاحِهَا وَادْعُوهُ خَوْفًا وَطَمَعًا ۚ إِنَّ رَحْمَتَ اللَّهِ قَرِيبٌ مِنَ الْمُحْسِنِينَ ﴿٥٦﴾ (الأعراف)

"Lo! His is the creation and His is the command. Blessed is Allah, the Lord of the whole Universe. Call upon your Lord with humility and in secret. Surely, He does not love the transgressors. And do not make mischief in the earth after it has been set in order, and call upon Him with fear and longing. Surely Allah's mercy is close to those who do good." (7:54-56)

The following are the activities of those who rebel against God and who are obsessed with securing worldly gains here and now: turn the earth into a vast slaughter-house, spread anarchy and conflagration, tear asunder world peace, commit eco-destruction, and bombard habitations to total extinction. Allah does not love anyone who harbours such evil intentions; he is an undesirable person in Allah's eyes.

وَمِنَ النَّاسِ مَنْ يُعْجِبُكَ قَوْلُهُ فِي الْحَيَاةِ الدُّنْيَا وَيُشْهِدُ اللَّهَ عَلَىٰ مَا فِي قَلْبِهِ وَهُوَ أَلَدُّ الْخِصَامِ ﴿٢٠٤﴾ وَإِذَا تَوَلَّىٰ سَعَىٰ فِي الْأَرْضِ لِيُفْسِدَ فِيهَا وَيُهْلِكَ الْحَرْثَ

وَالنَّسْلَ ۚ وَاللّٰهُ لَا يُحِبُّ الْفَسَادَ ﴿٢٠٥﴾ وَإِذَا قِيلَ لَهُ اتَّقِ اللّٰهَ أَخَذَتْهُ الْعِزَّةُ بِالْإِثْمِ فَحَسْبُهُ جَهَنَّمُ ۚ وَلَبِئْسَ الْمِهَادُ ﴿٢٠٦﴾ (البقرة)

"Among people there is a kind whose sayings on the affairs of the world fascinate you: he calls Allah again and again to bear testimony to his sincerity; yet he is most fierce in enmity. Whenever he attains authority, he goes about the earth spreading mischief and laying waste to crops and human life, even though Allah (whose testimony he invokes) does not love mischief. Whenever he is told, "Fear Allah," his vainglory seizes him in his sin. So Hell shall suffice for him; what a wretched resting place!" (2:204-206)

As long as nations follow the path of righteousness and welfare, the path of survival remains long and strong; when they begin to deviate, a verdict of their downfall is passed and they are eradicated root and branch. The holy Quran describes briefly this aspect of human history.

فَلَوْلَا كَانَ مِنَ الْقُرُونِ مِن قَبْلِكُمْ أُولُوا بَقِيَّةٍ يَنْهَوْنَ عَنِ الْفَسَادِ فِي الْأَرْضِ إِلَّا قَلِيلًا مِّمَّنْ أَنجَيْنَا مِنْهُمْ ۗ وَاتَّبَعَ الَّذِينَ ظَلَمُوا مَا أُتْرِفُوا فِيهِ وَكَانُوا مُجْرِمِينَ ﴿١١٦﴾ وَمَا كَانَ رَبُّكَ لِيُهْلِكَ الْقُرَىٰ بِظُلْمٍ وَأَهْلُهَا مُصْلِحُونَ ﴿١١٧﴾ (هود)

"Why were there no righteous persons among the generations that passed away before you who would forbid others from causing corruption on earth? And if such were there, they were only a few whom We had saved from those generations, or else the wrong doers kept pursuing the ease and comfort which had been conferred upon them, thus losing themselves in sinfulness. And your Lord is not such as would wrongfully destroy human habitations while their inhabitants are righteous." (11:116,117)

The nations which took to rebellion and anarchy were subjected to such a scourge that they were totally

annihilated and became historical reminders of the consequences of rebellion for future generations. While describing the tribes of Aad and Thamud and the Pharaoh and their political grandeur, the Quran has this comment:

الَّذِيْنَ طَغَوْا فِي الْبِلَادِ ﴿١١﴾ فَأَكْثَرُوْا فِيْهَا الْفَسَادَ ﴿١٢﴾ فَصَبَّ عَلَيْهِمْ رَبُّكَ سَوْطَ عَذَابٍ ﴿١٣﴾ إِنَّ رَبَّكَ لَبِالْمِرْصَادِ ﴿١٤﴾ (الفجر)

"(They are the ones) who transgressed in the countries of the world, spreading in them much corruption? Then your Lord cracked upon them the whip of chastisement. Truly your Lord is ever watchful."

(89:11-14)

According to Islam, the people qualified to lead must have piety and fear of God, must submit to orders, and must have the competence to lead towards righteousness and prosperity. People who are bereft of these qualities, who propose to live without control and discipline and who want to spread chaotic conditions in the world, are not worthy enough to be emulated. Support to them will only fan the flames of anarchy. This fact is made explicit through Prophet Salih ((unto him be peace).

فَاتَّقُوا اللهَ وَأَطِيْعُوْنِ ﴿١٥٠﴾ وَلَا تُطِيْعُوْا أَمْرَ الْمُسْرِفِيْنَ ﴿١٥١﴾ الَّذِيْنَ يُفْسِدُوْنَ فِي الْأَرْضِ وَلَا يُصْلِحُوْنَ ﴿١٥٢﴾ (الشعراء)

"Fear Allah and obey me, and do not follow the biddings of those that go to excesses and spread mischief in the land rather than set things right."

(26:150-152)

The passion with which Islam orders the ethical elevation of the human species and the force and vigour with which it prohibits chaos and destruction on earth can hardly be found even after an intense search in any constitution of the world. Islam asserts that

efforts for moral improvement constitute the way to success and the way to failure lies in the striving for the spread of corruption and disturbances affecting social harmony. Islam has given a direction to the human mind to think of improvement and betterment and amelioration and has turned human efforts in the direction of goodness. Even Jihad is an effort par excellence in the direction of human welfare and prosperity. When the clouds of devastation gathered in all directions, when the tyranny of a minority enslaved a majority of people, when exploitation became the order of the day, when people were deprived of freedom of thought, when the doors of Truth were closed, when to prevent people from following the Straight Path (shown by God), torture and excesses of every kind were inflicted upon them, then Islam unsheathed its sword. So, Jihad is unlike all other battles.

Islamic Concept of War

The second thing that needs to be understood precisely is the Islamic concept of war. If this understanding is not there we may misconstrue Jihad as just another war that is commonly fought the world over off and on and leaves in its wake such huge losses and miseries, that cannot be compensated for, and mitigated for a long, long time to come..

War is a scary enterprise, it is a state of existence encircled by dangers, and it is marked by loss of life and property, distancing one from one's kith and kin and homeland. At the battle-front, there is horror; war inflicts wounds, injuries, dismemberment of limbs, a huge loss of blood thus making it a cheap commodity. On account of these reasons the very thought of war is

frightening. In spite of these negative factors, wars are being fought and will continue to be fought. The objectives of war are the crux of the matter. Generally, wars are and have been waged in order to gratify the lust for power, the desire for territory annexation, the ambition to hold the reins of government, and the promptings for retaliation. These cause catastrophic and ruinous consequences. To participate or offer cooperation in such wars will result in destruction of all prospects in this world and in the hereafter, according to Islam.

Islam has taken two measures with regard to war. One, war was made subject to a noble and sublime purpose and labelled the war as Jihad fi sabeelillah, which means, a war fought seeking Allah's pleasure and making Allah's religion supreme. In such a war, merit is earned by bearing losses, suffering wounds, sacrificing money and life. Honour is conferred on participants in such a war. They are guaranteed survival and success. Unlimited reward can be expected from God. The holy Quran orders only 'Utmost Struggle (Jihad) in the way of Allah' in various places. An extract is given below.

يَاأَيُّهَا الَّذِينَ آمَنُوا هَلْ أَدُلُّكُمْ عَلَىٰ تِجَارَةٍ تُنجِيكُم مِّنْ عَذَابٍ أَلِيمٍ ۝١٠ تُؤْمِنُونَ
بِاللَّهِ وَرَسُولِهِ وَتُجَاهِدُونَ فِي سَبِيلِ اللَّهِ بِأَمْوَالِكُمْ وَأَنفُسِكُمْ ۚ ذَٰلِكُمْ خَيْرٌ
لَّكُمْ إِن كُنتُمْ تَعْلَمُونَ ۝١١ يَغْفِرْ لَكُمْ ذُنُوبَكُمْ وَيُدْخِلْكُمْ جَنَّاتٍ تَجْرِي مِن
تَحْتِهَا الْأَنْهَارُ وَمَسَاكِنَ طَيِّبَةً فِي جَنَّاتِ عَدْنٍ ۚ ذَٰلِكَ الْفَوْزُ الْعَظِيمُ ۝١٢ وَأُخْرَىٰ
تُحِبُّونَهَا ۖ نَصْرٌ مِّنَ اللَّهِ وَفَتْحٌ قَرِيبٌ ۗ وَبَشِّرِ الْمُؤْمِنِينَ ۝١٣ (الصف)

"Believers, shall I direct you to a commerce that will deliver you from a grievous chastisement? Have faith in Allah and His Messenger and strive in the way of Allah with your possessions and your lives. That is

better for you if you only knew. He will forgive you your sins and will admit you to Gardens beneath which rivers flow. He will lodge you in excellent mansions in the Gardens of eternity. That is the supreme Triumph. He will also grant you the other favours that you desire: help from Allah and a victory that will come soon. Give glad tidings of this to the believers."

(61:10-13)

This is Jihad fi sabeelillah. To deserve forgiveness and gardens abounding in blessings, man stakes his life and property. He secures Allah's help and success and succour.

Islam has not ignored losses inherent in an armed conflict, but instructed that the losses and hardships associated with *Jihad fi sabeelillah* should be endured, because this Jihad promotes the objectives of goodness, contains the welfare of humanity, and does not have any hidden motives of evil and perverse feelings. This truth the Quran brings out:

كُتِبَ عَلَيْكُمُ الْقِتَالُ وَهُوَ كُرْهٌ لَّكُمْ ۖ وَعَسَىٰ أَن تَكْرَهُوا شَيْئًا وَهُوَ خَيْرٌ لَّكُمْ ۖ وَعَسَىٰ أَن تُحِبُّوا شَيْئًا وَهُوَ شَرٌّ لَّكُمْ ۗ وَاللَّهُ يَعْلَمُ وَأَنتُمْ لَا تَعْلَمُونَ ﴿٢١٦﴾ (البقرة)

"Fighting is ordained upon you and it is disliked by you; it may well be that you dislike a thing even though it is good for you, and it may well be that you like a thing even though it is bad for you. Allah knows and you do not know". *(2:216)*

In this verse, there is a reference to man's natural unease and fear with regard to the subject of war, and there is an explanation that war may have a positive aspect too. War's bitterness should be endured for war's positive aspect. Man finds it hard to obey Allah the Exalted but he does not realize that the door of success in the world and in the hereafter is opened through obedience to God. This fact applies to the

subject of war. There is undoubtedly the danger of losing life and property in a war but it is a matter of great auspiciousness for man and a very great source of securing Allah's pleasure to raise the sword for human welfare and to offer the gift of life and property.

Peace Deserves Priority

After elevating war to the level of Jihad fi Sabeelillah, Islam took a second measure: Islam preferred peace to war. Islam permitted the waging of war only when all doors of peace and amity were closed and there remained no other alternative. Islam is a religion which gives importance to preaching; it seeks to spread its message far and wide; this task can be executed more easily in an atmosphere of peace and amity --- which allows people to think soberly about the message and thus provides opportunities for dissemination --- than in an atmosphere of conflict which reduces such opportunities drastically. That's why, Islam gives great importance to peace, amity, compromise and reconciliation. It instructs that if the enemy offers reconciliation and ceasefire, Muslims should have trust in God and accept the offer, so that the conditions of war could disappear and people could be saved from the heavy losses that war inflicts. One of the instructions about war is given in the following extract:

وَإِنْ جَنَحُوا لِلسَّلْمِ فَاجْنَحْ لَهَا وَتَوَكَّلْ عَلَى اللَّهِ ۚ إِنَّهُ هُوَ السَّمِيعُ الْعَلِيمُ ﴿٦١﴾ (الأنفال)

"If they incline towards peace, incline you as well to it, and trust in Allah. Surely, He is All-Hearing, All-Knowing." *(8:61)*

Further instruction in this regard is that, even as a military stratagem, if the foe offers peace, Muslims

need not feel nonplussed as Allah would help them; the offer of peace should be welcomed and accepted.

وَإِنْ يُرِيْدُوْٓا اَنْ يَّخْدَعُوْكَ فَاِنَّ حَسْبَكَ اللّٰهُ ۭ هُوَ الَّذِيْٓ اَيَّدَكَ بِنَصْرِهٖ وَبِالْمُؤْمِنِيْنَ ۝ (الانفال)

"And should they seek to deceive you, Allah is sufficient for you. He it is who strengthened you with His succour and with the believers." *(8:62)*

This statement is a proof that the holy Quran prefers peace to war. Where peace is possible, it should be opted for. The nuances of war and peace are kept in view and instruction is given that the state should not compromise on its autonomy and sovereignty. If a state acknowledges its weakness, seeks compromise under duress and begs for it, it will be against its autonomy and sovereignty. In this connection, it is said:

فَلَا تَهِنُوْا وَتَدْعُوْٓا اِلَى السَّلْمِ ۠ وَاَنْتُمُ الْاَعْلَوْنَ ۠ وَاللّٰهُ مَعَكُمْ وَلَنْ يَّتِرَكُمْ اَعْمَالَكُمْ ۝ (محمد)

"So, be not faint-hearted and do not cry for peace. You shall prevail. Allah is with you and He will not bring your efforts to naught." *(47:35)*

Freedom is a Must for the Worship of God

Islam is a name given to exclusive worship of God and it looks upon the worship as the sole and effective means of success and prosperity for humanity and invites the world to accept its message. Preaching, explanation and elucidation are adopted as the media for the purpose. Through compulsion, intimidation, force, Islam does not seek to impose its precepts on others as these methods are considered unacceptable and wrong. However, Islam wants that every

individual should have the freedom to embrace it and to live and act accordingly to its tenets and there should be no obstacles on the way to Islam. Freedom of belief is the fundamental and natural right of man. To deny man this freedom is the worst kind of brutality. Islam resorted to Jihad only when the right of its followers to believe in Islam and follow its instructions was not accepted.

Polytheists of Arabia Denied Freedom of Belief to Muslims

The initial stage of Islamic history is characterised by the enmity of the Makkans towards the earliest converts to Islam who were subjected to intolerable persecution. Many of the converts were obliged to leave their hearths and homes and their native place and migrate to Abyssinia. Circumstances moved apace in that direction until the Makkans started hatching unholy plots to assassinate Allah's Messenger (May Allah bless and greet him). Woe unto the plotters. In the meantime representatives from Madinah embraced Islam without fanfare. On their invitation, Allah's Messenger (Sal) migrated to Madinah. Soon thereafter, almost the entire population of Madinah entered the fold of Islam. Then his companions moved to Madinah too and the caravans of the hapless refugees converged on Madinah. History has recorded the circumstances through which they had passed before reaching Madinah. No reference is being made to them. The holy Quran has described those circumstances in various contexts. That description is more authentic than any historical account. More authentic accounts cannot be envisaged. Some extracts are being presented. The hostile and aggressive conduct of the

polytheistic Makkans and their unholy designs are described in a few words in one place but a whole history is encompassed in those few words.

وَإِذْ يَمْكُرُ بِكَ الَّذِينَ كَفَرُوا لِيُثْبِتُوكَ أَوْ يَقْتُلُوكَ أَوْ يُخْرِجُوكَ ۚ وَيَمْكُرُونَ وَيَمْكُرُ اللَّهُ ۖ وَاللَّهُ خَيْرُ الْمَاكِرِينَ ﴿٣٠﴾ (الأنفال)

"And recall those who disbelieved schemed against you to take you captive, or kill you, or drive you away. They schemed and Allah also schemed. Allah is the best of those who scheme". *(8:30)*

Another statement addresses the hypocrites:

إِلَّا تَنصُرُوهُ فَقَدْ نَصَرَهُ اللَّهُ إِذْ أَخْرَجَهُ الَّذِينَ كَفَرُوا ثَانِيَ اثْنَيْنِ إِذْ هُمَا فِي الْغَارِ إِذْ يَقُولُ لِصَاحِبِهِ لَا تَحْزَنْ إِنَّ اللَّهَ مَعَنَا ۚ فَأَنزَلَ اللَّهُ سَكِينَتَهُ عَلَيْهِ وَأَيَّدَهُ بِجُنُودٍ لَّمْ تَرَوْهَا وَجَعَلَ كَلِمَةَ الَّذِينَ كَفَرُوا السُّفْلَىٰ ۗ وَكَلِمَةُ اللَّهِ هِيَ الْعُلْيَا ۗ وَاللَّهُ عَزِيزٌ حَكِيمٌ ﴿٤٠﴾ (التوبة)

"It will matter little if you do not help the Prophet, for Allah surely helped him when the unbelievers drove him out of his home and he was but one of the two when they were in the cave, and when he said to his companion: "Do not grieve. Allah is with us." Then Allah caused His tranquility to descend upon him, and supported him with hosts you did not see, and He humbled the word of the unbelievers. As for Allah's Word, it is inherently uppermost. Allah is All-Powerful, All-Wise." *(9:40)*

The heart-rending circumstances through which the Prophet's companions had to pass through are mentioned in these words:

...يُخْرِجُونَ الرَّسُولَ وَإِيَّاكُمْ أَن تُؤْمِنُوا بِاللَّهِ رَبِّكُمْ ۚ ...(الممتحنة:١)

"They expel the Messenger and yourselves (his companions) for no other reason than that you believe in Allah, your Lord." *(60:1)*

...فَالَّذِيْنَ هَاجَرُوْا وَاُخْرِجُوْا مِنْ دِيَارِهِمْ وَاُوْذُوْا فِيْ سَبِيْلِيْ وَقٰتَلُوْا وَقُتِلُوْا لَاُكَفِّرَنَّ عَنْهُمْ سَيِّاٰتِهِمْ وَلَاُدْخِلَنَّهُمْ جَنّٰتٍ تَجْرِيْ مِنْ تَحْتِهَا الْاَنْهٰرُ ثَوَابًا مِّنْ عِنْدِ اللّٰهِ ۗ وَاللّٰهُ عِنْدَهٗ حُسْنُ الثَّوَابِ ﴿١٩٥﴾ (آل عمران)

"Those who emigrated and were driven out from their homesteads and were persecuted in My cause, and who fought and were slain, indeed I shall wipe out their evil deeds from them and shall certainly admit them to their Gardens beneath which rivers flow." This is their reward with their Lord and with Allah lies the best reward." *(3:195)*

Regarding the property (Fai) abandoned by the enemy or taken from him without a formal war, Allah says,

لِلْفُقَرَآءِ الْمُهٰجِرِيْنَ الَّذِيْنَ اُخْرِجُوْا مِنْ دِيَارِهِمْ وَاَمْوَالِهِمْ يَبْتَغُوْنَ فَضْلًا مِّنَ اللّٰهِ وَرِضْوَانًا وَّيَنْصُرُوْنَ اللّٰهَ وَرَسُوْلَهٗ ۗ اُولٰٓئِكَ هُمُ الصّٰدِقُوْنَ ﴿٨﴾ (الحشر)

"It also belongs to the poor emigrants who have been driven out of their homes and their possessions, those who seek Allah's favour and good pleasure and help Allah and His Messenger. Such are the truthful ones." *(59:8)*

One can fairly gauge the kind of circumstances through which Muslims were passing in Makkah from the Quranic excerpts quoted above.

Acts of aggression against the Islamic State of Madinah were countered

After the Hijra (migration), the small town of Madinah assumed the shape of a state and the precepts of Islam were put into practice. The polytheists of Makkah became its deadliest rivals and were determined to decimate it just because the small state was founded on Islam and there was total freedom to

worship and serve Allah and to obey His orders. It was during this state of affairs that permission was granted to wage Jihad against the people of Makkah and it was ordained that Muslims have now acquired the right to retaliate against the perpetual atrocity and to defend themselves.

أُذِنَ لِلَّذِينَ يُقَاتَلُونَ بِأَنَّهُمْ ظُلِمُوا ۚ وَإِنَّ اللَّهَ عَلَىٰ نَصْرِهِمْ لَقَدِيرٌ ﴿٣٩﴾ الَّذِينَ أُخْرِجُوا مِن دِيَارِهِم بِغَيْرِ حَقٍّ إِلَّا أَن يَقُولُوا رَبُّنَا اللَّهُ (الحج:٣٩-٤٠)

"Permission (to fight) has been granted to them for they have been wronged. Verily Allah has the power to help them: those who were unjustly expelled from their homes for no other reason than their saying: "Allah is our Lord". *(22:39, 40)*

As a result of the anti-brutality measures, the Battle of Badr first and then the Battle of Uhad were fought. In the former, Muslims were victorious and, in the latter, they had to bear the shock of defeat. Two years later, the Battle of the Ditch or Tribes (Ahzab) took place. On the instigation of the Jews, the polytheists of Makkah with the help of the Arab tribes in the surrounding areas launched a powerful attack on the state of Madinah. The Quran conjures up a picture of this multi-pronged invasion in the following words:

إِذْ جَاءُوكُم مِّن فَوْقِكُمْ وَمِنْ أَسْفَلَ مِنكُمْ وَإِذْ زَاغَتِ الْأَبْصَارُ وَبَلَغَتِ الْقُلُوبُ الْحَنَاجِرَ وَتَظُنُّونَ بِاللَّهِ الظُّنُونَا ﴿١٠﴾ هُنَالِكَ ابْتُلِيَ الْمُؤْمِنُونَ وَزُلْزِلُوا زِلْزَالًا شَدِيدًا ﴿١١﴾ وَإِذْ يَقُولُ الْمُنَافِقُونَ وَالَّذِينَ فِي قُلُوبِهِم مَّرَضٌ مَّا وَعَدَنَا اللَّهُ وَرَسُولُهُ إِلَّا غُرُورًا ﴿١٢﴾ (الاحزاب)

"When they came upon you from above you and form below you, when your eyes were stupefied with horror and your hearts leapt to your throats, and you began to entertain diverse thoughts about Allah, The believers were then put to a severe test and were most violently

convulsed. And call to mind when the hypocrites and all those with diseased hearts said: "All that Allah and His Messenger had promised us was nothing but deceit." *(33:10-12)*

The Holy Ka'bah Under Illegal Occupation of the Polytheists

The brutality practised against Muslims by the polytheists of Makkah is a blot on the face of humankind. No law of any land permits it. Moreover, the polytheists of Makkah had usurped the House of Allah. The holy Quran has described in detail that Prophet Abraham (unto him be peace) built the Ka'bah with his own hands and worshipped one God and was the standard-bearer of monotheism. He waged a life-long struggle against polytheism and in the process endured persecution, and bore hardships, and brought his family far away from his native place and settled it in a valley where no grass grew. He established the Ka'bah of Allah as the central place for monotheism. The people of Makkah genealogically related to Prophet Abraham (unto him be peace) forgot his emphasis on monotheism, forgot his lofty teachings, and got deeply involved in practices which invaded and overturned God's rights and privileges. The Ka'bah was turned into a place of idolatry and they occupied and usurped it.

In the sixth year of the Hegira, when Allah's Messenger (May Allah bless and greet him) and his companions went on a pilgrimage to Makkah, they were denied entry. He entered into a treaty with the Makkans and signed a pact of no war far ten years. But they violated the terms of peace. Their conduct provided justification for the termination of their annexation of

the Ka'bah through the conquest of Makkah, which once again became the headquarters of global monotheism.

Ruling Pertaining to Polytheistic Arabs

The holy Quran has made a distinction between the idol-worshippers of Arabia and others. It has directly addressed the polytheistic Arabs, invited them to subscribe to monotheism, and provided them with irrefutable proofs in its favour. The Prophet (May Allah bless and greet him) was born in their midst. He presented clinching evidence in order to convince them from every angle. Twenty-two long years passed and then it was decided that the centre of Islam should inevitably be purged of polytheism and so no individual will be given freedom to cling to polytheism and will have to accept the message that there is only one God. Otherwise, the Islamic State will wage Jihad against him. There is no third alternative for him.

As a pre-war measure, treaties with the polytheistic Arabs were annulled. A declaration of war was officially made. A respite of four months was given. Then the war ensued. (Details are available in the 9th chapter of the Quran). Certain orders in this connection are given and these should be understood against the background provided above.

وَقَاتِلُوْا فِيْ سَبِيْلِ اللّٰهِ الَّذِيْنَ يُقَاتِلُوْنَكُمْ وَلَا تَعْتَدُوْا ۭ اِنَّ اللّٰهَ لَا يُحِبُّ
الْمُعْتَدِيْنَ ۝ وَاقْتُلُوْهُمْ حَيْثُ ثَقِفْتُمُوْهُمْ وَاَخْرِجُوْهُمْ مِّنْ حَيْثُ
اَخْرَجُوْكُمْ وَالْفِتْنَةُ اَشَدُّ مِنَ الْقَتْلِ ۚ وَلَا تُقٰتِلُوْهُمْ عِنْدَ الْمَسْجِدِ الْحَرَامِ حَتّٰى
يُقٰتِلُوْكُمْ فِيْهِ ۚ فَاِنْ قٰتَلُوْكُمْ فَاقْتُلُوْهُمْ ۭ كَذٰلِكَ جَزَاۗءُ الْكٰفِرِيْنَ ۝ فَاِنِ انْتَهَوْا

فَإِنَّ اللَّهَ غَفُورٌ رَّحِيمٌ ﴿١٩٢﴾ وَقَاتِلُوهُمْ حَتَّىٰ لَا تَكُونَ فِتْنَةٌ وَيَكُونَ الدِّينُ لِلَّهِ فَإِنِ انتَهَوْا فَلَا عُدْوَانَ إِلَّا عَلَى الظَّالِمِينَ ﴿١٩٣﴾ (البقرة)

"Fight in the way of Allah against those who fight against you; but do not transgress, for Allah does not love transgressors. Kill them whenever you confront them and drive them out from (Makkah) where they drove you out. (For though killing is sinful) wrongful persecution is even worse than killing. Don't fight against them near the Holy Mosque unless they fight against you; but if they fight against you, kill them, for that is the reward of such unbelievers. Then if they desist, then know well that Allah is Ever-Forgiving, Most Compassionate." *(2:190-193)*

These verses take into account a state of affairs when the Islamic State is in the grip of war and has to execute its duty on the battle-front. The instructions which these verses contain can be summarized as follows: Fight with those who are engaged in war with you; in a state of war, there should be no reluctance or dilemma on the question of attacking the enemy; the enemy should be put to sword wherever he is vulnerable because this is the military need of the hour and without this strategy war cannot be won. It is beyond doubt that human life is precious and the act of killing is an evil act. A worse evil is to allow chaotic conditions to prevail in society for all crimes to thrive. Jihad is fought to eliminate conditions where might is right and where the rule of law is trampled upon. The Quranic word for such conditions is 'Fitna'. In fitna, man is not allowed to hold a belief of his choice and he is subjected to torture for the belief he holds dear. The polytheists were guilty of such coercion and so it is but in the fitness of things that the Muslims should evict their enemies from Makkah as they compelled

Muslims to leave Makkah. In this way Makkah would be reserved only for Allah's worship and service and the holy purpose for which the Ka'bah was built could be fulfilled. The Ka'bah is Allah's House and so its sanctity should be preserved, even in a state of war. As long as the enemy does not initiate an armed conflict in its precincts, Muslims should desist from the act of fighting; they should not initiate fighting; they have the right to respond if the enemy does not respect the sacred precincts of the Ka'bah and starts fighting. Then the fighting should continue until the fitna is eradicated and Arabia is made safe for total submission and surrender to God the Exalted.

These orders are given specifically against the polytheists of Arabia. Further orders have also been given in this connection. While examining the rules of Islam on the subject of peace and war, one has to keep in view the distinction between the orders applicable to the polytheists of Arabia and the orders which are of a general nature. It is a fact too that the orders of a general nature are found in connection with war against polytheists of Arabia too and these can be understood only contextually. While discussing Jihad, this aspect should be kept in view.

Necessity for the Defence and Protection of the Islamic State

Every state in the world pays attention to and takes steps for its defence and protection; the Islamic State is no exception. It will confront the enemy if war is imposed on it and if attempts are made to prevent it from living in accordance with Allah's commandments. If hostile forces close ranks to

decimate the Islamic State, it will make a concerted effort too to face the challenge. This is the order:

إِنَّ عِدَّةَ الشُّهُوْرِ عِنْدَ اللّٰهِ اثْنَا عَشَرَ شَهْراً فِيْ كِتٰبِ اللّٰهِ يَوْمَ خَلَقَ السَّمٰوٰتِ وَالْاَرْضَ مِنْهَآ اَرْبَعَةٌ حُرُمٌ ۭ ذٰلِكَ الدِّيْنُ الْقَيِّمُ ۙ فَلَا تَظْلِمُوْا فِيْهِنَّ اَنْفُسَكُمْ وَقَاتِلُوا الْمُشْرِكِيْنَ كَاۗفَّةً كَمَا يُقَاتِلُوْنَكُمْ كَاۗفَّةً ۭ وَاعْلَمُوْٓا اَنَّ اللّٰهَ مَعَ الْمُتَّقِيْنَ ۝ (التوبۃ)

"And fight all together against those who associate others with Allah in His Divinity in the manner that they fight against you all together, and know well that Allah is with the God-fearing." *(9:36)*

The Islamic State is well aware of the fact that eternal vigilance is the price of liberty and will build up an impenetrable infrastructure of defence. If the enemy has well-equipped armed forces, the Islamic State will strive to avoid asymmetry in this respect. Only if it is militarily invincible, the forces, confronting it and the forces instigating from behind will be awe-struck and will not dare to unleash a war. All those who invest their capital in making the Islamic State a formidable force to reckon with will receive infinite rewards from God on the Day of Judgment.

وَاَعِدُّوْا لَهُمْ مَّا اسْتَطَعْتُمْ مِّنْ قُوَّةٍ وَّمِنْ رِّبَاطِ الْخَيْلِ تُرْهِبُوْنَ بِهٖ عَدُوَّ اللّٰهِ وَعَدُوَّكُمْ وَاٰخَرِيْنَ مِنْ دُوْنِهِمْ ۚ لَا تَعْلَمُوْنَهُمْ ۚ اَللّٰهُ يَعْلَمُهُمْ ۭ وَمَا تُنْفِقُوْا مِنْ شَيْءٍ فِيْ سَبِيْلِ اللّٰهِ يُوَفَّ اِلَيْكُمْ وَاَنْتُمْ لَا تُظْلَمُوْنَ ۝ (الانفال)

"Make ready for an encounter against them all the (military) forces and well-readied horses you can muster so that you may overawe (shock and awe) the enemies of Allah and your own enemies and others besides them of whom you are unaware but of whom Allah is aware. Whatever you may spend in the cause

of Allah shall be fully repaid to you, and you shall not be wronged." *(8:60)*

The justification for this holy war is found in the efforts of the unholy forces; they hold aloft the standard of falsehood and are hell-bent on eradicating the Truth from the face of the earth. In contrast, the believers' armed struggle is in the way of Truth. This is Jihad in the way of Allah, 'fi sabilillah.' They are laying down their lives not because they have an axe to grind but because they wish to make Allah's religion dominant. Allah promises victory to them and reassures them that all the schemes of the forces of falsehood will go awry.

اَلَّذِيْنَ اٰمَنُوْا يُقَاتِلُوْنَ فِيْ سَبِيْلِ اللّٰهِ ۚ وَالَّذِيْنَ كَفَرُوْا يُقَاتِلُوْنَ فِيْ سَبِيْلِ الطَّاغُوْتِ فَقَاتِلُوْٓا اَوْلِيَآءَ الشَّيْطٰنِ ۚ اِنَّ كَيْدَ الشَّيْطٰنِ كَانَ ضَعِيْفًا ﴿٧٦﴾ (النساء)

"Those who have faith will fight in the Way of Allah, while those who disbelieve fight in the way taghut (Satan). Fight, then, against the followers of Satan. Surely Satan's strategy is weak." *(4:76)*

Etiquette of War

Islam has propounded a few rules of omission and commission with regard to war. People think all is fair in war but Islam has laid down some rules which should be observed strictly during the war and some moral precepts to be upheld on the battle-field. These rules are a unique contribution of Islam to the world's corpus of laws. An attempt to elucidate these principles to some extent is being made in the following paragraphs.

Fighting will be confined to those who have taken up arms. Every kind of torture and transgression will be strictly eschewed. People not involved in war

should be spared. Civil and urban population should not be attacked. It is not proper to target non-military areas, women, children, old people and physically handicapped people. War should be fought for Allah's pleasure and for the dominance of His religion and not for any personal gain. All these ideas are summed up concisely as follows:

وَقَاتِلُوْا فِيْ سَبِيْلِ اللّٰهِ الَّذِيْنَ يُقَاتِلُوْنَكُمْ وَلَا تَعْتَدُوْا إِنَّ اللّٰهَ لَا يُحِبُّ الْمُعْتَدِيْنَ۝ (البقرة)

"Fight in the way of Allah against those who fight against you; but do not transgress, for Allah does not love transgressions". *(2:190)*

Allama Abus Saud comments on this verse as follows: 'Fight in the way of Allah' means do jihad in order to make Allah's religion dominant and His Kalima supreme. There should be no other purpose. 'Do not transgress' means do not initiate war; do not fight with those who have entered into a treaty with you; without inviting the enemy to accept Islam, do not attack him by surprise; do not dismember the corpses and disrespect them; be not guilty of committing forbidden things like killing women, children and weak people like them.[1]

These details are available in the golden sayings of Allah's Messenger (Sal). A tradition narrated by Hazrat Abdullah bin Umar (Allah be pleased with them both):

نهى عن قتل النساء والصبيان۔

"He has forbidden the killing of women and children."[2]

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[1] Abu Saud: Tafseer Irshad al-Aql al-Saleem ila Mazay al-Kitab al-Kareem, : 2/85

[2] Bukhari, Kitab al-Jihad. This order is applicable when a woman is not participating in war, but if she leads or attacks, then there will be a retaliation. (Hidaya, 2/542)

The narrator of the Tradition says that, once in a battle, a woman of the opposite camp was killed and our Prophet (Sal) expressed his displeasure and forbade the killing of women and children.[1]

Hazrat Buraida (Radi) narrates that, whenever the Messenger of Allah sent an army, he would advise its commander specially to be God-fearing and to think of the welfare of the soldiers and subordinates, and then would say:

اغزوا باسم الله فی سبیل الله، قاتلوا من کفر بالله، اغزوا ولا تغلوا ولاتغدروا ولا تمثلوا ولا تقتلوا ولیداً۔

"Take the name of Allah and fight in the way of Allah, fight against those who deny Allah, fight, do not misappropriate, do not deceive, do not mutilate the corpse, do not kill any child."[2]

The Prophet's instructions are couched in the following words in a Tradition narrated by Hazrat Anas (Radi):

انطلقوا باسم الله و بالله و علی ملة رسول الله، ولا تقتلوا شیخاً فانیاً ولا طفلاً ولا صغیراً ولا امرأة، ولا تغلوا و ضمّوا غنائمکم و أصلحوا وأحسنوا، انّ الله یحب المحسنین۔

"Take the name of Allah and depart, seeking Allah's help and behaving in accordance with the Prophet's way. Do not kill any old person, any child, any teenager, any woman. Do not mis-appropriate. Collect the spoils of war. Keep your affairs in order. Be magnanimous in conduct. Allah loves people who are magnanimous."[3]

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[1] Muslim, Kitab al-Jihad wa al-Siyar, Abu Dawood, Kitab al-Jihad. Tirmidhi, Kitab al-Siyar.

[2] Muslim, Kitab al-Jihad wa al-Siyar, Abu Dawood, Kitab al-Jihad Tirmidhi, Kitab al-Siyar.

[3] Abu Dawood, Kitab al Jihad.

Hazrat Abu Bakr (Radi) sent an army under the leadership of Yazid bin Abu Sufyan and instructed him.

إنّک ستجد قوماً زعموا أنّهم حبّسُوْا أنفسَهم لِلّٰه، فذرهم وما زعموا من انهم حبسوا انفسهم له، وستجد قوماً فحصوا عن أوساط رؤوسهم من الشعر، فاضرب ما فحصوا عنه بالسّيف، و انی موصیک بعشر: لَا تقتلن امراة ولَا صبیا ولَا کبیراً هرماً ولَا تقطعن شجراً مثمراً ولَا تخربن عامراً ولَا تعقرنّ شاةً ولَا بعیراً اِلَّا لمأکلة ولَا تحرقن نحلاً ولَا تفرقنّه ولَا تغلل ولَا تجبن-

"You may meet people who will say that they have dedicated themselves to the worship of God. These monks must be spared. Accept their claim that they are deeply involved in the worship of God. You may meet people who shave off the central part of their heads. Behead them. I give you ten pieces of advice: Don't you ever kill woman, a child, a decrepit old man; don't cut a fruit-bearing tree; do not lay waste a field fit for irrigation; do not kill a goat or a camel unless their meat is needed for food; do not set any beehive on fire and scatter the bees; do not misappropriate; and do not behave like a coward."[1]

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[1] Muatta Imam Malik, Kitab al-Jihad. The leaders of the Christians who shaved the central part of their heads were known as Shammasah. Zurqani on Al-Muatta, 2/295. Perhaps they were worldly leaders who pretended to be religious. Orders were that monks should not be touched but the worldly leaders were not spared.

On account of these precepts, masters of jurisprudence have said that during war, women, old men, the handicapped, the blind and the monks would not be attacked. If they directly participate in war or offer cooperation in it, they would be killed. For details see Ibne Qudama, Al-Mughni, 13/140, 141. If the enemy uses them as a shield, or uses even a Muslim as a shield, there would be a retaliation. In the same way, if women, children, etc., came within the line of

The question here is not who the targets were and what the reasons for war were. What is to be noted is that, even during the war, Islam upholds lofty ideals and how human dignity is preserved at the battle-front.

In modern times, war has changed a great deal with the invention of bombers, rockets and latest weapons of mass destruction. Now, battle is not confined to the battle field but its area has spread far and wide. With the declaration of war, every nerve is strained to destroy the economic power of the enemy, to ruin factories and manufacturing units, to target defence organizations, to disrupt transport and communication links. All these are located at a distance from the battle front and near the urban areas, which come under attack during the raids. As a result, men, women, adults, old people, children all are killed indiscriminately and those who survive cannot keep themselves safe from the evil effects of chemical warfare. They fall a prey to physical, mental and psychiatric diseases to such an extent that their physical survival would be worse than the state of death.

If there is sympathy for humanity and if war is fought under regulations, then mankind can be protected to some extent from the catastrophic effects of war. In this connection there are some international laws and more can be added in future. Whatever laws are made to protect common people and their habitations, they will be in accordance with Islamic principles of warfare and Islam will lend its support to them.

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firing, their death would be an unavoidable collateral damage. (Ibne Qudama, Al-Mughni, 13/177-180)

The Rights of Dhimmis

The non-Muslim subjects of the Islamic State are described as 'Dhimmis'. This term's connotation has been so distorted and rendered so horrifying that, as soon as this term is mentioned, a picture of torture and oppression, deprivation and helplessness, pitiable plight and humiliation is conjured up in the mind's eye. Instead of a direct refutation of such a picture, an effort is made here to explicate the true status of a Dhimmi in the Islamic State. This would enable the spontaneous emergence of a clear fact that the concept of a Dhimmi has been so distorted that it has no connection whatever with the lofty precepts of Islam.

The non-Muslim subjects of the Islamic State fall into two categories- One Dhimmi and the other Muahid. They are clearly distinguished. This distinction is first elucidated here. The Islamic State took upon itself the responsibility of protecting the life, property and honour of each citizen living in the countries conquered after a war. Freedom of religion was granted to those citizens. Even though they had been conquered and overpowered, their legal rights were defined and they were not conscripted into the army. They were technically known as Dhimmis and Jizya was collected from them in lieu of the rights made available to them.

As regards Jizya, the distinguished Prophet (Sal) and the rightly guided caliphs have explained and implemented it. In the light of their observations and

practices, masters of jurisprudence have derived the following principles:

1. According to a majority of them, the quantum of Jizya will be in accordance with his financial status. In a society there are people with low income, people with average income, and people with great affluence. The Jizya levied on the first group will be less than that levied on the second group; the Jizya levied on the affluent group will be higher than that levied on the middle income group.[1]
2. It is not necessary to collect Jizya in cash. It may be collected in the form of agricultural produce or cattle. In modern times Jizya can be paid from industrial output.[2]
3. It will not be collected from a child, a woman, a mentally challenged beggar, an economically disadvantaged person, a very old person, and physically handicapped person. A similar

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[1] In the Hanafi School of jurisprudence, Jizya is a fixed amount and no change is allowed despite changes in circumstances. For the lowest category like labourers, and the poor, the annual quantum is 12 dirhams; for the middle classes, 24 dirhams; and for the upper classes, 48 dirhams. (Al-Durrul Mukthar with the refutation of Radd Al-Muhtar) This was the prevalent system during the caliphate of Hazrat Umar (May Allah be pleased with him) but it was not meant to be final and unalterable. In my view, the opinion of other experts in the field who maintain that the state reserves the right to increase or decrease the quantum in the light of the circumstances carries more weight. (ibne Qayyim, Ahkam Ahl al-Dhimma, pp.123-128) While determining the quantum, utmost care will be taken to ensure that no section should feel it a burden to pay, and, in general, large amounts ought to be paid by way of tax gladly. Zakat, for a Muslim of means, is compulsory and it is 2 ½ per cent on cash and 10 or 20 % on agricultural produce and is much larger than Jizya. Zakath cannot be levied on a non-Muslim.

[2] Ine Qayyim: Ahkam Ahl al-Dhimma. 1/129-131

exemption is extended to monks and priests, because they are dependent on the charity of others and incapable of paying Jizya.[1]

Muahid are those non-Muslims whose areas were assimilated into the Islamic not through conquest but through mutual negotiations. As the conditions posed no danger to the fundamental principles, interests and solidarity of the State the agreement was entered into. The agreement would be upheld.[2]

The difference between a Dhimni and a Muahid is this; the State grants rights to the former on its own; the latter determines his own rights in the light of the agreement. When our scholars use the term 'Dhimmi', it applies to both groups. Allamah Ibne Athir writes about the Muahid:

المعاهد من كان بينک و بينه عهد، وأكثر ما يطلق فى الحديث على أهل الذمة، و قد يطلق على غيرهم من الكفار اذا صولحوا على ترک الحرب مدةً ما۔

"A Muahid is one who has entered into a pledge with you. In the Traditions it is most applied to Dhimmis. Sometimes it is applied to those Non-Muslims who have entered into a ceasefire agreement with you."

Like the Dhimmi, no Muahid can be treated high-handedly. Ibne Athir comments,

لإنه معصوم المال يجرى حكمه مجرى حكم الذمى۔

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[1] For details: Ibne Qudama, Al-Mughni 13/216-221

[2] Imam Malik says that land and assets of the countries conquered through a war become the property of Muslims as they are the booty of war. As against this, the people with whom a compromise has been struck will be treated in accordance with the terms of the compromise. If anyone of them embraces Islam, in his case the status quo ante will be restored and he will become the owner of his land and property. (Muatta, Kitab al-Jihad).

"The safety of a Muahid's property is guaranteed. The law governing a Dhimmi governs him too."[1]

Allama Ibne Athir here refers to the definition of Muahid, and some aspects of the pledge with him. He has made it clear that the term *'Muahid'* is mostly applicable to *Dhimmi* in the Traditions.

The Definition of 'Dhimmi'

Before discussing the rights of the *Dhimmi*, it will be proper to determine the etymological and technical meanings of the term and to make clear how the scholars have explained it on the basis of etymology and technique. This will automatically prove that this term has not been used with the purpose of insulting and humiliating the non-Muslim subjects but to highlight the responsibility of the Islamic State towards them.

Dhimma connotes pledge, guarantee, a promise worthy of respect, and a right. Dhimmi is derived from it. Lisanul Arab has this:

سُمِّی اهل الذمة ذمة لدخولهم فی عهد المسلمین و أمانهم۔

"People of Dhimma are called Dhimmi and are so called because they have entered into a pledge and peace treaty with Muslims."[2]

Under the same category it is stated:

الذمة هی الأمان، لهذا سمّی المعاهد ذمیًّا لِانّه أعطی الأمان علی ذمة الجزیة التی توخذمنه۔

"Dhimma means lending protection. This is the reason why Muahid is called Dhimmi. It is because protection is lent to him on the basis of Jizya collected from him."[3]

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[1] Ibn Athir, Al-Nihaya fi Gharib al-Hadith 3/141.
[2] Ibn Manzoor, Lisan al-Arab.
[3] Op. cit.

From the same basic letters, the word 'Dhamam' has been derived. It is explained in the following way.

الذمام كل حرمة تلزمک اذا ضيّعتها المذمة، و من ذلک يسمى أهل العهد أهل الذمة۔

Dhamam" is applicable to every respectable object as its wastage will bring condemnation on you. That is why, people covered by the pledge are called people of Dhimma (as denying their rights to them is condemnable).[1]

A modern standard Arabic Dictionary has this.

الذمى المعاهد الذى اعطى عهد يأمن به على ماله و عرضه و دينه۔

A Dhimmi is one who has been given guarantees and assurances. As a result, he feels safe and secure with regard to his property, reputation and religion.[2]

From this it becomes clear that a Dhimmi is a non-Muslim citizen whom the Islamic State gives a legally binding promise that it will protect his life, property, and honour and on its basis collects Jizya or a fixed tax.

A statement of Hazrat Umar (May Allah be pleased with him) gives us a fair idea of the importance of this covenant. During the period between a fatal attack on him and his death, he issued instructions to his successor to follow. Among them there were instructions on the Dhimmis too.

و أوصيه بذمة الله و ذمة رسوله ﷺ أن يوفى لهم بعهدهم و ان يقاتل من ورائهم ولا يكلّفوا الا طاقتهم۔

[1] Ibn Manzoor, Lisan al-Arab.
[2] Al-Mujam Al waseet.

"I advise him to uphold the responsibility that Allah and His Messenger have entrusted him with towards the Dhimmis, to fulfil the promise given to them, to wage war in their defence when they are attacked and to impose on them the burden (of Jizya) to the extent that they can easily carry."[1]

This is an indication that, in the name of Allah and His Messenger, the Islamic State has entered into a treaty with the Dhimmis and is officially bound to fulfil it. It takes the responsibility to protect their life and property and is obliged to discharge the responsibility without let or hindrance to such an extent that if it comes to waging a war to defend their life and property, the Islamic State should be ready to wage it.

The Rights of Dhimmis

The rights of the Dhimmis in the Islamic State in general and some of them in particular are taken up for discussion here. Besides, there will be a detailed analysis somewhat of the discussions that the Shariah experts engaged in having a bearing upon law and jurisprudence.

Dhimmi's Right to Life

In the eyes of Islam, every human life is invaluable. Unjustifiable homicide is a most serious crime. It is imperative that a Dhimmi's life should be treated with utmost regard. A great sinner is he whose hands are tainted with the blood of a Dhimmi; he has forewarned that he runs the risk of losing Paradise.

[1] Bukhari, Kitab al-Manaqib, Ayni, Umdatul Qari, 12/120.

Hazrat Abdullah bin Amr narrates that the Prophet (May Allah bless and greet him) said:

من قتل معاهداً لم يرح رائحة الجنة و إنّ ريحها ليوجد من مسيرة أربعين عاماً۔

"The assassin of a Muahid will not smell the fragrance of Heaven, even though it has the expanse and range of 40 years."[1]

من قتل معاهداً فی غیر کنهه حرّم اللّٰه علیه الجنة۔

"If a Muahid is put to death unjustifiably, Allah will penalise the murderer by making Heaven out of bounds for him."[2]

Such warnings are quite enough to prevent any acts of excesses against the Dhimmis. In addition, the Islamic State takes upon itself the responsibility of protecting their lives. The arm of law will grab anyone if he raises his hand against a Dhimmi. A question, however, may arise whether the murder of a Muslim and the murder of a Dhimmi can be treated on a par legally. Will a Muslim guilty of killing a Dhimmi deserve capital punishment? Or is there some difference between the two murders? In this connection, the Quran has furnished only guidance in principle. Further guidelines in this matter can be derived from it. There is an explicit prohibition of cold-blooded murder and there is the order to rush to the aid of the victim.

The Quran states:

وَلَا تَقْتُلُوا النَّفْسَ الَّتِيْ حَرَّمَ اللّٰهُ اِلَّا بِالْحَقِّ ۭ وَمَنْ قُتِلَ مَظْلُوْمًا فَقَدْ جَعَلْنَا لِوَلِيِّهٖ سُلْطٰنًا فَلَا يُسْرِفْ فِّي الْقَتْلِ ۭ اِنَّهٗ كَانَ مَنْصُوْرًا ۝ (بنی اسرائیل)

[1] Bukhari, Kitab al diyaat.
[2] Abu Dawood, Kitab al Jihad, Nasai, Abwab al Qasama.

Do not kill any person whom Allah has forbidden to kill, except with right. We have granted the heir of him who has been wrongfully killed the authority to (claim retribution); so let him not exceed in slaying. He shall be helped. *(17:33)*

Islam orders that 'Qisas' should be collected from the murderer. The concept of equality is embedded in 'Qisas'. That is, the life of one is equal to that of another. No discrimination is allowed. The victim may be small or big, rich or poor, a man of status or a man of no status but he will be avenged and his murderer will pay the price with his life and there will be no consideration of extraneous conditions like his rank or status in society or the absence of status. The killer has forfeited his right to the protection of his life by his dastardly act.[1]

The Quran orders:

يَٰٓأَيُّهَا ٱلَّذِينَ ءَامَنُواْ كُتِبَ عَلَيۡكُمُ ٱلۡقِصَاصُ فِي ٱلۡقَتۡلَىۖ (البقرة:١٧٨)

"Believers! Retribution (Qisas - equality) is prescribed for you." *(2:178)*

The justification for this is explained as follows:

وَلَكُمۡ فِي ٱلۡقِصَاصِ حَيَوٰةٞ يَٰٓأُوْلِي ٱلۡأَلۡبَٰبِ لَعَلَّكُمۡ تَتَّقُونَ ١٧٩ (البقرة)

"People of understanding, there is life for you in retribution that you may guard yourselves, against violating the Law." *(2:179)*

What this statement means is that if this law is in operation, any would-be assassin would think twice before resorting to the act of murder and realize that taking another's life will result in his own life being

[1] The discussion on Qisas is confined to that aspect which the context demands for details, please refers to Urdu book Tahqeeqat-e-Islami: Discussions on Jurisprudents Topic, article 'The Law Relating to Qisas in Islam'.

taken away for good. This realization will save the lives of both. When the way to homicide is closed in any community, then it will be a means to the community's survival. This will ensure the safety of the lives of scores of people. In this regard, the doctrine is spelt out:

أَنَّ النَّفْسَ بِالنَّفْسِ وَالْعَيْنَ بِالْعَيْنِ ... (المائدة:٤٥)

A life for a life and an eye for an eye. *(5:45)*

Retribution from a Muslim for killing a Dhimmi

Is this order applicable to a Dhimmi or not? To get an answer, we have to refer to Hadith. Hazrat Ali (Allah be pleased with him) narrates:

لَا يُقْتَلُ مُسلم بكافر۔

A Muslim will not be given capital punishment in retribution for killing a non-believer.[1]

Another version of this statement:

لَا يقتل مؤمن بكافر ولَا ذو عهد فی عهدہٖ

In retribution for killing a non-believer, a Muslim will not be put to death and so too a Muahid will not be killed as long as the covenant lasts.[2]

Allama Khattabi gives this footnote on the hadith:

فيه البيان الواضح: المسلم لَا يقتل باحد من الكفار كان المقتول منهم ذميا او معاهدا او مستامناً او ماكان۔

"It is a clearly stated that if a Muslim kills an unbeliever, be he a Dhimmi or a member belonging to a Muahid tribe or a migrant from Darul Harab seeking

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[1] Bukhari, kitab al diyaat.

[2] Abu Dawood, kitab al diyaat, Nasai, Abwab al qasama. Musnad Ahmed, vol.2, Hadith no.959, 993. In Abu Dawood, this hadith is narrated through another chain of narrators. Both Traditions are Hasan. Fath al Bari:12/261

asylum or anyone else, in retribution he will not be killed."[1]

On the basis of these Traditions, Hazrat Umar bin Abdul Aziz, Imam Auzaee, Thauri, Ibne Shabrama, Imam Shafii, Imam Ahmed, Ishaq bin Rahwya, Abu Thaur hold the opinion that a Muslim will not be killed even if he murders an unbeliever.[2]

Imam Malik holds a slightly different opinion. If a Muslim kills a Dhimmi, he will not be killed in retribution. However, if has resorted to fraudulent means in the act of killing, he will be killed too.[3]

A fraudulent practice is to take the victim on some excuse to a secret spot and then kill him. This is an example of "fasad fil ard" (or breakdown of a law and order situation) and so even if the bereaved members of the family forgive the murderer, the government will not forgive him.[4]

If there is no punishment for a Muslim for killing a Dhimmi, it does not imply that there is no alternative punishment. Allama Ibne Hazm says in the case of calculated murder there will be retribution. The killer can face imprisonment.[5]

Imam Sheubi, Ibrahim Nakh'ee, Muhammad bin Abi Laila, Usman Bati, Imam Abu Haneefa and his students, Imam Abu Yusuf, Imam Muhammad, Imam Zufar hold the opinion that Qisas will be collected from a Muslim for killing a Dhimmi. If a Muslim kills a Dhimmi, he will be killed too. It is reported that among the Companions, Hazrat Umar and Hazrat

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[1] Khattabi, Ma'lim al Sunan; 4/17
[2] Ayni, Umdatul Qari: 19/349; Ibn Qudama, Al-Mughni, 7/652
[3] Muatta, Kitab al Uqool.
[4] Sharh Zurqani on Muatta : 4/42
[5] Ayni, Umdatul Qari: 19/349.

Abdullah bin Masood (May Allah be pleased with them) were of that opinion.[1]

One proof that these scholars offer is the Quran 5:45 (A life for a life) In this no discrimination is made between a Muslim and a Dhimmi. That means, the law of Qisas applies to both.

As regards the Tradition in which it is stated that in retribution for an unbeliever's murder, no Muslim would be killed, the unbeliever refers not to a Dhimmi but to an unbeliever in a state of war. The same interpretation applies to the second Tradition too. No Muslim and no Muahid as long as the covenant lasts will be killed in retribution for the murder of an unbeliever in a state of war. The word 'unbeliever' refers to a warring unbeliever. It is obvious that a combatant's blood cannot be equal to that of a Muslim or a Dhimmi or a Muahid. The combatant's blood can be shed whereas the state has offered security to a Dhimmi, and so his blood is equal to a Muslim's blood.[2]

The second point is that in contrast to these Traditions there are other Traditions which prove that a Muslim was killed in retribution for a Dhimmi. Though the second group of Traditions does not enjoy the same standard of authenticity that the first group enjoys, they can be cited in support of an argument collectively.

A narration from Dar Qutni, etc., says that Allah's Messenger (May Allah bless and greet him) killed a Muslim in retribution for a Dhimmi and claimed:

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[1] ibid.

[2] To understand the Hanafi viewpoint, please see Hidaya: 4/559. To understand the views of the opposing parties and their comparative strengths and weaknesses please see khattabi, Ma'lim al Sunan: 4/16-19, Fath al Bari 12/261-262, Shawkani, Nayl-al-Autar, 7/152,155.

أنا أكرم من وفى بذمته۔

"I am more distinguished (than others) in the matter of abiding by the terms of a covenant sincerely."[1]

Hazrat Ibrahim Nakh'ee says that a Muslim belonging to Bakr bin Voyle killed a Dhimmi of Ahl-e-Heerah. Then Hazrat Umar (Radi) killed that Muslim too in retribution.[2]

In another Tradition, it is further explained that Hazrat Umar (Radi) wrote that the murderer should be handed over to the family of the victim and that family could decide his fate either way - they could kill him or pardon him. And so the murderer was handed over to the guardian of the victim and he was known as Hunayn and he killed the murderer. A little later Hazrat Umar wrote to say that if the murderer was not killed, then he could be spared. The import was that the guardians of the victim could be persuaded to accept blood money.

About Hazrat Ali (Radi) it is stated, that a Muslim was presented before him as a murderer of a Dhimmi. When the guilt was proved. Qisas was ordered. Suddenly, the victim's brother appeared and said that he had forgiven the Muslim. Hazrat Ali (Radi) asked him if he was doing so under threat. He replied in the negative and said that by taking the murderer's life, he would not get back his own brother. Moreover, the murderer's relatives had offered him compensation. Hazrat Ali (Radi) left the matter to his discretion and pronounced the rule of Shariah:

من كان لهٗ ذمتنا فدمه كدمنا و ديته كديتنا۔

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[1] This Tradition is weak: Vide Zail'ee, Nasb al Raya, 4/335-336. Please see further Ibn Hajar, Fath al Bari, 12/262

[2] Abdur Razzaq, Al-Musannaf 10/101; Zail'ee, Nasb al Raya: 4/337

The Dhimmi's blood is equal to our blood; his blood-money, equal to ours.[1]

Maimoon bin Mehran says that he saw a written statement of Hazrat Umar bin Abdul Azeez (Rah) which was addressed to a Governor of Hira. That statement discussed the matter of a Muslim killing a Dhimmi. Hazrat Umar bin Abdul Azeez had written that the Muslim murderer should be handed over to the family of the victim and they were free to kill him or pardon him.[2]

From this is becomes clear that if the Islamic State takes the stance that Qisas will be taken from a Muslim on behalf of a Dhimmi and the Muslim will be killed for killing a Dhimmi, then that stance will not be a weak one as there are as many reinforcing arguments in its favour as there are in its disfavour.

The Blood Money (Diyat) to be paid for a Dhimmi

Muslim scholars of jurisprudence have discussed various aspects of the blood money or monetary compensation for the murder of a Dhimmi. In this regard, we come across three viewpoints.[3]

In the eyes of Imam Shafii, the blood money for a Dhimmi is one-third of the amount of the blood money

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[1] There is a weakness in the chain of narrators. Imam Shafii (Rah) has found fault with the text too by recalling that Hazrat Ali (Radi) himself has conveyed a saying of the Prophet (Sal) that a Muslim would not be killed in retribution for killing a Dhimmi. And this statement is quite authentic. Can Hazrat Ali (Radi) go against the Prophet's ruling? Nasb al Raya, 4/337. But if the defence offered by Hanafi School, that the Tradition refers to combatants, is accepted then there is no mismatch between the verdict and the practice.

[2] Zail'ee, Nasb al Raya: 4/337

[3] Vide Khattabi, Ma'lim al Sunan: 4/37, 38. Ibn Hubayra, Al-Ifsah: 2/211. Ibn Rushd, Bidayatul Mujtahid: 6/66.

fixed for a Muslim. The supporting evidence for this viewpoint comes from a Tradition narrated by Hazrat Ubada bin Saamat (May Allah be pleased with him) which says that the Messenger of Allah (May Allah bless and greet him) said that the diyat of a Jew and a Christian is 4000 dirhams.[1]

Hazrat Sayeed bin Musayyib says that, during his caliphate, Hazrat Umar (May Allah be pleased with him), fixed twelve thousand dirhams as the quantum of Diyat for a Muslim, and four thousand dirhams as the diyat for a Jew or a Christian, and for a Zorastrian, the diyat is still less and it is eight hundred dirhams only.[2]

In the opinion of Imam Ahmed and some other scholars, the Dhimmi's diyat is half of a Muslim's diyat. In support, the narration of Amr bin Shuyaib is cited. He heard it from his father and he from his grandfather that Allah's Messenger (May Allah bless and greet him) said,

دية المعاهد نصف دية الحر۔

"Muahid's diyat is half the diyat of a free (Muslim)."[3]

This narration is found in another version as follows:

دية عقل الكافر نصف دية عقل المؤمن۔

"The diyat of a Kafir is half of that of a Momin."[4]

The words in Sunan Nasai are more explicit.

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[1] Ibn Qudama, Al-Mughni: 12/55

[2] Tirmidhi, Abwab al Diyaat, Bayhaqi, As-sunan al kubara: 10/100. For details, Zail'ee, Nasb al Raya: 4/365; Shawkani, Nayl al Autar: 7/221-222-Hazrat Usman (May Allah be pleased with him) is reported to have confirmed the same diyat for a Jew and a Christian.

[3] Abu Dawood, Kitab al diyaat. Khattabi says, "There is no clearer Tradition than this with regard to the diyat of Ahl-e-Kitab." Ma'lim al Sunan: 4/37

[4] Tirmidhi, abwab al Diyaat op.cit.

عقل الكافر نصف عقل المؤمن۔

"A Kafir's diyat is half the diyat of a Momin."[1]

Imam Malik and some other scholars hold the opinion that these Traditions pertain particularly to Ahl-e-Kitab among the Dhimmis, because a Tradition with the following words is available.

عقل أهل الذمة نصف عقل المسلمين و هم اليهود و النصارى۔

"The diyat of the people of Dhimma is half the amount of the diyat of a Muslim and the Jews and the Christians are the people of Dhimma."[2]

All these scholars think that wherever the word 'kafir' occurs in the Traditions, they indicate that the word refers to Jews and Christians, and others are excluded. Imam Malik asserts that he has received a report pertaining to Hazrat Umar bin Abdul Azeez (Rah)

قضٰى أن دية اليهودى او النصرانى اذا قتل احدهما مثل نصف دية الحرّ المسلم۔

which says that he passed a judgment that if a Jew or a Christian is murdered, his diyat will be half the diyat which is fixed for a free Muslim on his murder.[3]

The statement of Hazrat Umar (Radi) has already been quoted that the diyat for a Zoroastrian is 800 dirhams[4] and this diyat is much less than the diyat of

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[1] Nasai, Abwab al Qasama.

[2] Previous citation, A Tradition in Musannaf Abdur Razzaq quotes the Prophet as saying that the intellectual power of the Ahl-e-Kitab among the Jews and Christians is half as much as that of a Muslim. 92/100. Dar Qutni has a slightly altered version.p.360.

[3] Muatta, Kitab al Uqool. Tirmidhi, Abwab al Diyaat.

[4] Dar Qutni, p,343

Ahl-e-Kitab. Imam Malik, Imam Shafii and Imam Ahmed have adopted this viewpoint.[1]

A famous Tabiyee, Hazrat Suleiman bin Yasaar, says:

دية المجوس ثمانمأة درهم

"The diyat of a Zoroastrian is 800 dirhams."

Quoting this, Imam Malik says that his practice conforms to this viewpoint.[2] Other polytheistic groups are covered by the ruling applicable to the Zoroastrians.[3]

Finding fault with this viewpoint, Imam Sheukani says that the opinion that the Tradition narrated on the authority of Amr bin Shuyaib refers to Ahl-e-Kitab only and so their diyat alone would be half is not correct because a reference to a particular group does not imply a preclusion of other groups. The words of the Hadith are quoted from different narrators and among them several words are common. Therefore, every Dhimmi of the Islamic State, be he a member of Ahl-e-Kitab or a Zoroastrian, everyone's diyat will be half (the diyat of a Muslim).[4]

Mention has been made of the opinion of Hazrat Umar bin Abdul Azeez (Rah) with regard to the principle that the Jewish and the Christian Dhimmi will get a diyat which will be equal to a half of the diyat fixed

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[1] Ahmad al Dardir Maliki says that the Dhimmi, be he a follower of the Book or a combatant under a guarantee of protection, is entitled to half the diyat of a Muslim. The diyat for a Zoroastrian and an apostate is one-fifteenth. Gold 62 2/3 Dinar, Silver 800 dirham or Camel 6 2/3. Al Sharh al Sagheer ala Aqrab al-Masaalik: 4/376.

[2] Muatta, Kitab al Uqool.

[3] Ibn Qudama Al-Mughni: 12/55-56.

[4] Shawkani, Nayl al Awtar: 7/223

for a Muslim. There is another report from him about a Zoroastrian.

جعل دية المجوسى نصف دية المسلم۔

"He fixed a diyat for a Zoroastrian which would be one-half of a Muslim's diyat."[1]

Hisham bin Urwah says,

دية الذمى خمس مأة دينار۔

"The diyat of a Dhimmi is 500 dinars."[2]

According to Imam Abu Haneefa and his disciples and to Imam Thawri, the diyat for both a Dhimmi and a Muslim is the same. There is no difference. It is found that Hazrat Umar and Hazrat Abdullah bin Masood (May Allah be pleased with them) held such an opinion.[3]

In Hidaya, the viewpoint of the Hanafi School is written thus:

دية المسلم و الذّمى سواء۔

"Both Muslim and Dhimma have an equal diyat."[4]

This Quranic verse provides substance for this viewpoint

وَإِنْ كَانَ مِنْ قَوْمٍ بَيْنَكُمْ وَبَيْنَهُمْ مِّيثَاقٌ فَدِيَةٌ مُّسَلَّمَةٌ إِلَىٰ أَهْلِهِ (النساء:٩٢)

"And if the slain person belonged to a (non-Muslim) people with whom you have a covenant then the atonement is to pay the blood-money in full to his heirs." *(4:92)*

This verse makes it clear that a victim from a tribe with whom there is a treaty is entitled to compensation without any reduction and on a par with the

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[1] Abdur Razzaq , Al Musannaf : 10/95
[2] Op. cit,
[3] Al-Mughni: 12/51
[4] Hidaya ; 4/582

entitlement of a Muslim victim. Certain Traditions reinforce this viewpoint.

A Tradition narrated by Hazrat Abdullah bin Abbas (May Allah be pleased with both) says that Amr bin Umayya Damari (Radi) killed two persons and they were named Aamir. They had entered into a treaty with Allah's Messenger (May Allah bless and greet him) and so he paid a diyat to their heirs which was the same as that given to a Muslim victim.[1]

Hazrat Abdullah bin Umar (May Allah be pleased with both) says that Allah's Messenger (May Allah bless and greet him) paid blood-money for a Dhimmi which was equal to the diyat of a Muslim."[2]

Yaqoob bin Utbah, Ismail bin Muhammad and Salih say:

عقل كل معاهد من أهل الكفر كعقل المسلمين، جرت بذلك السنة في عهد رسول الله ﷺ.

The diyat of every Muahid among people of Kufr is like the diyat of a Muslim. This was the practice during the period of Allah's Messenger, (May Allah bless and greet him)[3]

Imam Zohri says,

دية اليهودي والنصراني والمجوس و كل ذمي مثل دية المسلم، قال: و كذلك كانت على عهد النبي ﷺ وأبي بكر و عمر...

"The diyat of a Jew, a Christian, a Zoroastrian and every Dhimmi is like the diyat of a Muslim and said that that was the practice in the era of Allah's Messenger (Sal) and Hazrat Abu Bakr and Hazrat Umar (May Allah be pleased with them)

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[1] Tirmidhi, Abwab al Diyaat; Dar Qutni, Kitab al Hudood wa al Diyaat, etc. P.360

[2] Dar Qutni, p, 343.

[3] Abdur Razzaq, Al musannaf : 10/97,98; Zail'ee, Nasb al Raya: 4/368

He further adds that after them Hazrat Muaviyah (Radi) reduced the Dhimmi's diyat by half.[1]

Another report of Imam Zohri is as follows:

ان ابابكر و عمر كانا يجعلان دية اليهودى والنّصرانى اذا كانا معاهدين دية الحر المسلم۔

Hazrat Abu Bakr and Hazrat Umar used to treat the diyat of a Jew and a Christian, when they belonged to a tribe covered by a treaty with Muslims, as equal to the diyat of a Muslim.[2]

Musannaf Abdur Razzaq contains a statement of Hazrat Ali ديةاليهودى والنصرانى و كل ذمى مثل دية المسلم that the diyat of a Jew, a Christian, and a Dhimmi is equal to that of a Muslim.

Imam Abu Haneefa says, وهو قول'wa huwa qowli', And that is what I say too indeed.[3]

Hazrat Abdullah bin Masood (Radi) says:

دية المعاهد مثل دية المسلم۔

Muahid's diyat is like the Muslim's.[4]

This is exactly what Hazrat Ali (Radi) had said.[5]

There is weakness somewhat in the Traditions advocating equality in the diyat of a Muslim and a Dhimmi. On the whole, they are capable of being cited as a proof. What emerges from the precedents of the Companions is that some companions held the view that the Dhimmi's diyat was 50% of the Muslim's diyat and even less and some others treated

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[1] Abdur Razzaq, Al-musannaf: 10/95,96

[2] op.cit.

[3] op.cit.: 10/97

[4] Previous reference. More statements in this regard are found on p.98

[5] Favourable and critical opinions on the subject can be seen. Baihaqi, Al-Sunan al-kubra with Al-Jawhar Al-Naqi: 10/100-103

the diyat of both as equal and what is more, some of them held and advocated both views. Proof for this is found in the statements mentioned above.[1]

There is one more view that though the Dhimmi's diyat is less than that of a Muslim, possibility exists as a penal measure to increase it to the level of a Muslim's diyat. Hazrat Abdullah bin Umar (May Allah be pleased with him) narrates that a Muslim deliberately murdered Dhimmi during the rule of the third caliph, Hazrat Usman (May Allah be pleased with him) did not take the Muslim's life but increased the diyat of the Dhimmi to the level of a Muslim's and forced him to pay the increased amount.[2]

Imam Zohri says that during the rule of Hazrat Muawiyah (Radi), Khalid bin Mohajir was guilty of a Dhimmi's murder and the ruler did not kill him in punishment. Instead he increased the diyat to 1000 dinars.[3]

On the basis of these precedents, the Hambali School of jurisprudence, though committed to the principle that a Dhimmi's diyat is half the Muslim's diyat, finds provision for an increase in the diyat as a penal measure.[4] In the light of these details, there is full justification for treating the diyat of a Muslim and of a Dhimmi equally in Muslim jurisprudence. As this equality is in harmony with the demands of justice, from that point of view, it should be preferred and the Islamic State can take recourse to it.

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[1] Abdur Razzaq, Al-Musannaf: 10/96

[2] op.cit.

[3] op.cit. : 10/96. Moreover, see the following reference on this topic, Nasb al Raya: 4/368.

[4] Ibn Qudama, Al-Mughni: 12/54

The Protection of a Dhimmi's Property

The responsibility of protecting the Dhimmi's property, like that of protecting his life, devolves upon the Islamic State. No one will be permitted to take forcible possession of his money, property, assets and to use them for personal gain. Hazrat Khalid (May Allah be pleased with him) says that he was with Allah's Messenger during the battle of Khyber. After the battle, the Jews came and complained that Muslims were pouncing upon the gardens and farm produce not kept in the open but stored in protected places. As a treaty had been signed with the Jews, he passed an order immediately:

الا لا يحلُّ أموال المعاهدين إلّا بحقّها۔

"Listen, it is illegal to touch the property of the people who have signed a treaty with us; it is the right (of the State) to take what is legally due to it."[1]

According to another Tradition, a Jew, who was highly mischievous, complained that animals were being slaughtered, fruits were being plucked, women were being assaulted. Immediately, the Prophet (Sal), turned his attention to the complaint and expressed his extreme displeasure, collected the followers, led the Prayers and delivered a sermon, in which he said:

ان الله لم يحل لكم ان تدخلوا بيوت اهل الكتاب الّا باذن ولا ضرب نسائهم و لا اكل ثمارهم اذا اعطوكم ماعليهم۔

"Allah has not allowed you to enter the houses of Jews and Christians without seeking their permission, and to raise your hands against their women and to consume their fruits, when they have paid you the obligatory Jizya."[2]

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[1] Abu Dawood, Kitab al At'ima.
[2] Abu Dawood, Kitab al Kharaj.

In a Tradition one comes across even this instruction that it is not proper for a Muslim to lay hands on any property of a Dhimmi or a Muahid, lying on unclaimed on the ground. Hazrat Miqdam bim Mueedi Karab (Radi) narrates that Allah's Messenger (May Allah bless and greet him) said:

الا لا يحل ... اللُّقطه من مال معاهد الا ان استغنى عنها-

"Listen! Muahid's property or luqta which had fallen down cannot become your property. However, if the owner does not require it, then you may take it."[1]

Muslims look upon certain things of the Dhimmis as unholy and treat the use of those things as forbidden. They cannot harm even those things. Otherwise, according to Hanafi School, they will have to pay compensation for it. For example, take wine and pork. According to Hanafi School, if these two things are in possession of a Muslim and another Muslim spoils or destroys them, then no compensation is warranted because these things have no value in the eyes of a Muslim. But if these two things belong to a Dhimmi and a Muslim spoils them, then he will have to pay compensation for them because, to a Dhimmi, these things carry a value of their own. Pork to a Dhimmi is what mutton is to a Muslim; or wine to him is as good and valuable as vinegar to a Muslim.[2]

Islamic State has to exercise vigil in protecting the economic rights of its citizens. It can never allow anyone to meddle with or usurp them. Nobody's legitimate rights would be adversely affected in commercial matters, in negotiations for the contract of a loan, and in all such related issues. There will be no

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[1] Abu Dawood, Kitab al At'imah.
[2] Hidaya: 3/368

discrimination on religious grounds. An incident which happened in the Prophet's time furnishes us with a basic guideline.

Musnad-e-Ahmed has this Tradition. A Jew lodged a complaint with Allah's Messenger (May Allah bless and greet him) that his Companion, Ibne Abi Hadrad, had taken a loan of four dinars and was not repaying it. The Prophet advised him to repay the loan. In self-defence the Companion said, "I swear by Allah who has sent you with the religion of Truth, that I am not at all in a position to repay the loan. You have promised me that I would be allowed to participate in the battle of Khyber and I look forward to my share in the spoils of war. At that time I will repay the loan to the Jew." Even after listening to this excuse, the Prophet insisted that he should repay the Jew's loan. The Companion repeated his earlier reply. Still the Prophet told him to repay the loan. After hearing the advice for the third time, no one could summon courage to say anything. Therefore, Ibne Abi Hadrad rose up, went to market, removed his head-cover and used it to cover his legs, and sold his chador for four dinars. A lady saw him without a chador and she gave him one to cover his body.

While annotating this Tradition, Allama Sheukani writes:

فيه التشديد على المديون بايجاب القضاء و عدم قبول دعواه الاعسار لمجردها من دون بينة و عدم الاعتداء بيمينه من غير فرق بين أن يكون صاحب المال مسلماً او كافراً۔

"This incident proves that pressure will be put on the debtor to repay his loan. His claim that he is helpless and has no means to repay the loan without furnishing a proof cannot be given due credence. Even if he

swears, he will not be trusted. This treatment is applicable to both a Muslim and a non-Muslim."[1]

According to Islam, the punishment for stealing is the amputation of the hand. (5:38) This punishment is applicable to all irrespective of religion; it does not matter whether the thief is a Muslim or a non-Muslim and whether the property stolen belonged to one or the other. Imam Ahmed, Imam Shafii or members of the Hanafi School all hold this view that if a Muslim steals a Muslim's property or a Dhimmi's, his hand will be cut off. If a Dhimmi is guilty of theft, he deserves the same punishment. Allama Ibne Qudama Hambali says, "In this matter there is no difference of opinion to the best of my knowledge."[2]

Similarly, in another matter too there is no difference. When there is a dispute between a Muslim and a Dhimmi, and the latter goes to court, the dispute will be settled in accordance with law and no party will be subject to injustice.[3]

The Islamic State provides full protection to the economic assets of a Dhimmi so that he carries on his economic activities without any risk and fear and with utmost confidence.

Contributions of Dhimmis to the State Administration

There is a question whether the Dhimmis or non-Muslims can hold any office in the Islamic State, or will be allowed to serve it in any manner. To put the same question in modern parlance, it may be asked whether they will get employment opportunities.

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[1] Shawkani, Nayl al Awtar: 9/182. A debtor can be arrested. Details on the issue can be gathered from the books on jurisprudence.
[2] Ibn Qudama, Al-Mughni: 12/451
[3] Ibid 12/383

It is but natural that only the people who accept Islam as a religion sent by God and who have faith and strong belief in its truth can run sincerely the administration of the State established on the basis of Islam. In contrast, responsibility to run the Islamic State cannot be put on those people who have mental reservations about the truth of Islam and who do not subscribe to the idea that Islam is a religion founded by Allah. They are not suitable to occupy the key posts. Apart from such posts, can their services be utilised in other state matters? One opinion is that the State should avoid seeking cooperation of any kind from them. To prove the strength of this opinion, several verses from the Quran are cited and one of them is as follows:

يَٰٓأَيُّهَا ٱلَّذِينَ ءَامَنُوا۟ لَا تَتَّخِذُوا۟ بِطَانَةً مِّن دُونِكُمْ لَا يَأْلُونَكُمْ خَبَالًا وَدُّوا۟ مَا عَنِتُّمْ قَدْ بَدَتِ ٱلْبَغْضَآءُ مِنْ أَفْوَٰهِهِمْ وَمَا تُخْفِى صُدُورُهُمْ أَكْبَرُ قَدْ بَيَّنَّا لَكُمُ ٱلْءَايَٰتِ إِن كُنتُمْ تَعْقِلُونَ ﴿١١٨﴾ (آل عمران)

"Believers! Do not take for intimate friends those who are not of your kind. They spare nothing to ruin you; indeed they long for you to suffer. Their hatred is clearly manifest in what they say, and what they say, and what their breasts conceal is even greater. Now We have made Our messages clear to you if only you can understand (the danger of their intimacy)!"[1] *(3:118)*

Qazi Abu Yali comments on this verse:

و فی هٰذه الٰایة دلٰالة علٰی انهٗ لٰا یجوز الٰاستعانة باهل الذمة فی امور المسلمین من العمٰالٰات و الکتبة۔

[1] To look up the details of the context and background of this verse and other similar verses, please see Chapter III (E) of this book.

This verse makes it clear that it is not proper to seek help from the craftsmen, writers (etc.) among the Dhimmis in the matters pertaining to Muslims.[1]

It is reported that when Hazrat Abu Musa Ash'ari (Radi) employed a Dhimmi as his amanuensis, Hazrat Umar (May Allah be pleased with him) sternly remonstrated with him saying that when Allah has subordinated the Dhimmis, he was elevating a Dhimmi to the level of an associate in the exercise of power.[2]

The Hanafi School holds the view that an 'Aashir, an official who collects taxes like Ushr and Kharaj, has perforce to be a Muslim. Appointing a non-Muslim to such a post or similar posts is forbidden. In support, the following verse of the Quran is quoted:

وَلَن يَجْعَلَ اللَّهُ لِلْكَافِرِينَ عَلَى الْمُؤْمِنِينَ سَبِيلًا ﴿١٤١﴾ (النساء)

He will not allow the unbelievers, in any way, to gain advantage over the believers." *(4:141)*

In further support, Hazrat Umar's (Radi) remonstration cited above is quoted.

Imam Muhammad (Rah) reports that Hazrat Umar (Radi) wrote to Hazrat Saad bin Abi Waqqas (Radi) that no polytheist should be employed as a writer (Munshi) to record the matters pertaining to Muslims because they seek illegal gratification in their religious matters and it is haram in our religion. Imam Muhammad claims that he follows this instruction and the head of the State is not authorised to employ a non-Muslim writer.[3]

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[1] Ibn al Jauzi: Zad al Maseer: 1/447

[2] Ibn al-Jauzi, Zad al Maseer: 1/447. There seems to be a special background for this remonstration. We will give a reference later. Further details on this viewpoint can be looked up. Qurtubi, Al Jami li Ahkam al Quran: 4/179.

[3] Ibn Abideen, Raddul Muthar: 1/50,51)

One reason why Hazrat Umar (Radi) did not employ a non-Muslim writer was that he took bribes. Muslims were free from this evil and so they were considered worthy of employment. Otherwise no corrupt person will be given an official post, even if that corrupt person happens to be a Muslim. This point invalidates the general ruling that no non-Muslim can be given an important post in the Islamic State. If a non-Muslim is endowed with honesty and integrity and is trustworthy, then he can be invested with responsibility.

Non-Muslims' Participation in War

Another issue which had been under the discussion of scholars of jurisprudence is the question whether non-Muslims can render service in war. One group is of the opinion that it is absolutely incorrect to take help from the non-Muslims. Imam Ahmed belongs to this group. In his view, the Traditions which allow non-Muslim participation in war are less authentic than the Traditions which disallow it.[1]

There is a Tradition in Sahih Muslim and other Books of Traditions. Hazrat Ayesha (Allah be pleased with her) narrates it. Allah's Messenger departed for Badr and reached Hurratul Wabra (a place four miles away from Madinah). There he met a man, who was famous for his courage, grit, strength and energy. Muslims were pleased at his arrival. He volunteered as a participant in the battle in order to get a share in the spoils of war. The Prophet (Sal) asked him whether he believed in Allah and His Messenger. He replied in the negative. Then he replied, "La nastaeena bi mushrik." (We don't seek help from a Mushrik.)

[1] Zail'ee, Nasb al Raya: 3/424. In addition, see Qurtubi, Al-Jami li Ahkam al Quran: 4/179

Hazrat Ayesha (Radi), continuing the narration, said, "When some distance was covered, the same man re-appeared at a place called Ash-shajarah, and made a request again. The Prophet (Sal) repeated the earlier question about his belief in Allah and His Messenger. He answered in the negative and the Prophet too gave the stock reply that no help was sought from a Mushrik. After that he met the Prophet (Sal) at a place called Baida and requested him again. The Prophet (Sal) asked him again if he believed in Allah and His Messenger. Then he affirmed that he did believe in them. Then the Prophet said, "Then, come with us."[1]

An incident of a similar nature is mentioned in Mustadrak Hakim, Musnad-eAhmed, Ibn Abi Shaiba, and Ishaq bin Rahwya etc. Habib bin Asaf and his companion appeared before Allah's Messenger (May Allah bless and greet him) and said, "It is a matter of shame for us that we don't participate in a war in which men of our tribe are participating. And so, we seek your permission to participate in the war." The Prophet (Sal) asked them too the same question, whether they had embraced Islam. They said that they had not. He replied that help from the polytheists was not sought. Then they said that they were converting to Islam and consequently participated in the war.[2]

On the one hand we have these anecdotes and, on the other, there are incidents which provide the proof that, in matters of most delicate nature, the services and skills of non-Muslims can be utilised when the situation so demands.

Take the example of the Hegira. When Allah's Messenger and Hazrat Abu Bakr departed from

[1] Muslim, Kitab al Jihad wa alSiyar.
[2] Zail'ee, Nasb al Raya: 3/423

Makkah, they hired the services of a professional guide who was from the tribe of Banu Ad Deel and who was a Kafir too.[1] In accordance with the pre-Islamic ethics he took a strong oath that he would keep the journey a secret and execute his duties as a guide professionally.[2]

Allah's Messenger and Hazrat Abu Bakr trusted him and handed their she-camels to him. After three days, the excitement caused by a search for him died down, he brought the she-camels to the cave of Thaur and, following a path along the coast, took both of them to Madinah.[3]

Allama Badruddin Aini comments on this Tradition: "This proves that if the polytheists demonstrate loyalty and high moral calibre, then they can be trusted in matters of secrecy and of finance, in the same way as the Prophet trusted the Mushrik. Though the polytheists were enemies, they were committed to the pious traditions that Abrahamic faith had generated and had a hold on them. (One of the traditions was the upholding of the word of honour.) As the Prophet detected in the Kafir good manners and respectful attitude, he trusted him in the secret plan of migration and put his she- camels in his custody for three days and later he brought them to the cave of Thaur. This was an example of trusting him in matters of finance."[4]

Allah's Messenger (Sal) was surrounded by dire circumstances in Makkah; his enemies did everything possible to make his longer stay in Makkah

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[1] The name of the Kafir is controversial. One preferred name is Uraiqat. Fath al Bari, 7/238.

[2] In pre-Islamic times, to consolidate the oath, hands were smeared with blood or saffron colour or some similar thing. Fath al Bari: 7/227.

[3] Bukhari, kitab Manaqib al Ansar, with Fath al Bari: 7/232-238.

[4] Badruddin Ayni, Umdatul Qari: 10/73

impossible; plots were being hatched to eliminate him physically. Then he decided to migrate from Makkah. It was a decision which warranted strictest secrecy. To carry out such a decision, he hired the services of a person who was a member of the enemy group in the matter of religion and paid him compensation for services rendered. This explains that cooperation can be sought from trustworthy non-Muslims in the most hostile circumstances when the need arises. Such cooperation cannot be a forbidden thing.

This incident does not relate to war but to apply this example to cooperation in matters of war cannot be wrong. In both situations, secrecy and trust are of fundamental importance. In addition, there is proof that in certain military expeditions after the Hegira, Allah's Messenger (May Allah bless and greet him) secured cooperation from the non-Muslims. That's why, Imam Abu Haneefa, Imam Shafii and some other pre-eminent scholars have held this cooperation permissible in keeping with the demand of the situation.

The scholars holding this view say that the head of the Islamic State or its ruler can permit non-Muslims to participate in a war under two conditions. One: When the required number of Muslim soldiers is not available and non-Muslim help is necessary. Two: Non-Muslims from whom help is sought should be trustworthy. Imam Shafii points out that that the reference to the Prophet's rejection of the offer made by one or two Mushriks to participate in the war in the narration of Imam Malik actually relates to the Battle of Badr and he wants us to note that four years after that battle, the Prophet secured help from the Jews of Banu Qaynuqa'a during the battle of Khyber and help

from Safwan bin Umayya when he was a Mushrik during the battle of Hunayn.[1] Two things can be said about incidents of the rejection of the offer relating to the battle of Badr: One, it was left to the discretion of the Prophet to take a mushrik to the battle or not to take him. He took a Mushrik once and another time he didn't. This discretion he could extend to Muslims too. If he didn't want to take a Muslim to the battle-field, he could do so. From this angle, the Traditions do not contradict each other. Two, if the Prophet did not take some people with him, it was on account of their being mushrik or polytheists. The latter incidents in which he got help from them will be treated as precedents to be followed and the earlier incidents of not getting help may be looked upon as abrogated and abandoned. During the march to the battle of Badr, if the Prophet did not enlist the services of a mushrik, he might have hoped that his conduct might persuade him to embrace Islam. Anyway, the commander of armed forces reserves the right to stop someone from

[1] This incident relates to the military expedition of Hunayn. The Prophet learnt that the tribe Hawazin and its allies were planning to initiate a war against him. In response, he started military preparations too. In the meantime, he came to know that Safwan bin Umayyah, who was then a Mushrik, had a huge cache of arms in his possession. He sent his emissary to him with the message: O Abu Umayyah! Please supply your arms to us on concession; we will make use of them in the battle fixed for tomorrow. He asked if those arms would be confiscated. The Prophet assured him, 'they are being borrowed on concession and they will be returned after the battle, and the loss or damage of the weapons would be made good.' Then he said that he had no objection. Consequently, he supplied 100 coats of mail and equally matching weapons. Moreover, on the Prophet's request, he made arrangements to send the weapons to his camp. Seerat, Ibn Hisham, Sira: 4/68.

participating in the war using his discretionary powers.[1]

While commenting on the Muslim Tradition, إِنَّا لَا نَسْتَعِيْنُ بِمُشْرِكٍ 'Inna la nastaeenu bi Mushrik'-We do not seek help from any Mushrik- Imam Nawawi says that we learn from another Tradition that the Prophet sought help from Safwan bin Umayyah before he became a Muslim. One group of scholars accepts the first Hadith in isolation and concludes that seeking help from any Mushrik is absolutely wrong. But Imam Shafii and other scholars maintain that if a Kafir has a good opinion about Muslims and the need of the hour is that help should be sought from him, then his help would be sought. If there is no pressing need, then it will be preferable to avoid seeking his help. In this way the two Traditions will be applicable to two different situations.[2]

Imam Abu Bakr Jassas says: "The Hanafi School takes the view that in a battle against the polytheists, help can be sought from other polytheists opposing them. However, precaution should be taken to ensure the implementation of Islamic commands. If there is afear that help from the opposing polytheists will tilt the balance of power in their favour, then their help would not be sought. And Muslims will not ally with them in the war. Famous Traditions culled from the biographical accounts of the Prophet point out that sometimes Jews and sometimes polytheists associated themselves with the Prophet in the battles. As regards the incident in which the Prophet said that help from a

[1] Zail'ee, Nasb al Raya: 3/424. Moreover,vide Ibn al Humam, Fath al Qadeer: 4/327

[2] Nawawi, Sharh Muslim, vol. IV, part 12, p.199

Mushrik was not wanted, there is a possibility that it was a one-off affair related only to him. He might have been suspected of being a spy. The Prophet might be hinting that such persons were not welcome.[1]

The Share of Non-Muslims in the Spoils of War

Do non-Muslims too have a fixed share in the spoils of war as the Muslims have? This is one of the issues that have engaged the attention of those scholars of jurisprudence who hold the view that the Islamic State can hire military services of non-Muslims when the need arises. Imam Tirmidhi says that, in the view of some scholars, even if a Dhimmi attacks an enemy in support of the Muslims, he will have no fixed share in the spoils of war. In the view of some other scholars, the Dhimmis who participate in the war in support of Muslims will have a share in the spoils. Imam Zohri narrates that Allah's Messenger (May Allah bless and greet him) gave a share in the spoils to the Jews who fought in support of Muslims.[2]

This statement of Imam Zohri is included in the "Marasil" of Abu Dawood. One of the reporters has used the words مثل سهمان المسلمين(Mithl sahmanul Muslimeen) - like the share of the Muslims. Ibne Abi Shaiba narrates" فيسهم لهم كسهام المسلمينfa yas sahum lahum ka sahamul Mulimeen." That is, "The Prophet (Sal) used to give shares to the Jews who participated in the war in the same way as he gave to Muslims."[3]

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[1] Jassas, Ahkam al Quran:2/544

[2] Tirmidhi, Abwab al Siyar.

[3] These statements are 'marasil' of Imam Zuhri are weak in authenticity. Zail'ee, Nasb al Raya: 3/422-423.

Baihaqi narrates that Hazrat Abdullah ibn Abbas (May Allah be pleased with both) said Allah's Messenger (Sal) took the help of the Jews of Banu Qainuqa'a and he gave them a grant but not a share in the spoils.[1]

Waqidi states that ten Jews from Madinah were in the company of Allah's Messenger during the battle of Khyber and he gave them a share as he gave the Muslims too. It is also stated that what he gave was by way of a gift and it was not a regular share.[2]

Imam Nawawi says, "If a non-Muslim participates in a war after securing permission from the Imam, he will be given something by way of a grant and it will not be a regular share. This is the view of Imam Malik, Imam Shafii, Imam Abu Haneefa, and it is the general consensus. Imam Zohri and Awza'ee say that there will be a regular quota of share for the non-Muslims too."[3]

It is stated in the Hanafi School of jurisprudence that the share of a Dhimmi combatant (in the spoils) will not be equal to that of a Muslim. Whatever is given to him by way of a grant will in any case be less than what a Muslim combatant gets. One alternative is that if a Dhimmi has not directly participated in the war but has rendered some service, then wages will be paid for that indirect service. If this indirect service is of such a nature that Muslims gain enormous benefit, like guiding them in a very special manner, then the wages to be paid to him would be higher than what he would have got as the share in the spoils.[4]

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[1] In this narration there is weakness. See above.
[2] op. cit.
[3] Nawawi, Sharh Muslim, vol. 4, part 12, p.199
[4] Hidayah, with Fath al Qadeer: 4/327. Al Durr al Mukthar, with Raddul Muthar: 3/25.

In these details, the incident of the migration to Madinah emerges before us first. During this journey, help from a non-Muslim was sought. It proves that even in the most hostile circumstances, one may come across such non-Muslim individuals who can be trusted in the ongoing Islamic programmes. There is no harm whatever in the endeavour to take advantage of their expertise and to get help from them. Not only that. It may positively be an inalienable part of the Islamic scheme of things. That the Islamic State can enlist military services of the non-Muslims is borne out by the proofs provided by the Traditions and the support lent by most of the schools of jurisprudence. The general consensus is that there is a prescribed share for Muslim sepoys in the spoils of war whereas there is no such prescribed share for non-Muslim sepoys. However, a few eminent scholars hold the view that there is parity between the share of a non-Muslim soldier and that of his Muslim counterpart in the spoils. This discussion is not at all important because, of late, the technique of war has reached a level of sophistication where the issue of the spoils of war rarely arises. However, in Islamic jurisprudence, the possibility exists for employing non-Muslims in military service against payment of compensation.

Collection of Zakat

Another aspect deserves highlighting.

There is a general consensus among Muslims that the Zakath assets cannot be spent on non-Muslims.[1] However, when we look at the categories on whom zakath can be spent, we come across one

[1] Ibn Qudama, Al-Mughni: 4/106

category in the Quran: وَالْعٰمِلِيْنَ عَلَيْهَا Wal Aamileena alaiha. A question arises: Will it be proper to employ a non-Muslim to collect and distribute zakath and pay him remuneration for that work? One response from Imam Ahmed bin Hambal is that it is not proper to do so but another response from him is to the contrary. Just as a non-Muslim can be paid for other services of his, it will not be wrong to pay him for his work in the department of zakath. Allamah Kharqi, a Hambali scholar of jurisprudence, seemed to hold such a view.

Zakath is related to Muslims in particular. Non-Muslims can be employed to collect other revenues and taxes, like Jizya, Khiraj. These are collected from non-Muslims and no defect is detected in employing non-Muslims to collect these.

In the light of these details and keeping the latest scenario in view, a fresh reappraisal of the rights, employment opportunities, etc., of non-Muslims is the need of the hour.

Places of Worship belonging to the Dhimmis Will be protected

There is a charge-sheet against Muslims that, when they held the reins of government, they demolished and razed to the ground many a place of worship belonging to the non-Muslims. It is just an accusation because it is difficult to bring forth evidence in support. Stepping aside from further discussion on the subject, one may make no bones about saying that if someone or some group had really been guilty of such an act, they committed a heinous act, and Islam has nothing to do with it. Islam's teachings against the demolition of places of worship are loud and clear. The very first time that the exalted

Quran gives permission to Muslims for Jihad, it spells the need and wisdom of giving such permission in the following words:

وَلَوْلَا دَفْعُ اللّٰهِ النَّاسَ بَعْضَهُمْ بِبَعْضٍ لَّهُدِّمَتْ صَوَامِعُ وَبِيَعٌ وَّصَلَوٰتٌ وَّمَسٰجِدُ يُذْكَرُ فِيْهَا اسْمُ اللّٰهِ كَثِيْرًا ۗ وَلَيَنْصُرَنَّ اللّٰهُ مَنْ يَّنْصُرُهٗ ۗ اِنَّ اللّٰهَ لَقَوِيٌّ عَزِيْزٌ ۝٤٠ (الحج)

"If Allah were not to repel some through others, monasteries and churches and synagogues and mosques wherein the name of Allah is much mentioned, would certainly have been pulled down. Allah will most certainly help those who will help Him. Verily Allah is Immensely Strong, Overwhelmingly Mighty." *(22:40)*

This verse indicates that the command to wage Jihad was not given to Muslims alone but to all Prophets and their respective communities in order to eradicate injustice and barbarity. To raise objection against Jihad is in essence an objection against those eminent personalities whom Allah favoured most and against their lofty ideals. Had it not been for Jihad, the world would have been overwhelmed by acts of oppression and torture and places of worship would not have been spared. Allah's enemies and rebels against Him would not have rested without demolishing them. And so, whenever torture reached unacceptable levels, and champions of extremism made up their minds to dispense with religion and its manifest signs, then Allah ordered the upholders of Truth to stand in battle order and confront them and stop them in their tracks so that they do not proceed further on their path of extremism.[1]

[1] Qurtubi, Al-Jami li Ahkam al Quran: 12/70

Another interpretation of the verse quoted is that if Muslims are not permitted to raise their swords at a time when their persecution at the hands of the polytheists had reached an alarming level, then no place of worship could remain standing on earth. The synagogues of the Jews, the churches of the Christians and the mosques of the Muslims would have been levelled.[1]

One may prefer any of the interpretations. What is to be noted is that the demolition of any place of worship is a thoroughly deplorable and condemnable act, according to Islam. It not only opposes demolition of the places of worship but also seeks protection for them with the same sense of commitment as it seeks protection for mosques.

There is unanimity among scholars of jurisprudence on the issue. If an Islamic government is established over a non-Muslim area, the places of worship found therein will not be demolished. Instead, their restoration will be allowed. When need arises, they can be rebuilt. In consequence of the conquests of many areas and many cities, no monastery and church was even touched, let alone their demolition.

In proof thereof, reference has been made to those places of worship which were constructed before the Islamic conquests and which remained standing for centuries thereafter. The fact of the matter is that there is no justification whatsoever for vandalising or demolishing the places of worship belonging to non-Muslims, according to Islamic law. The Islamic precepts warrant that they should be preserved and Islamic history bears witness to the fact that they were

[1] Mawardi, Al-nukat wa uyoon: 3/84

indeed preserved and no move was made to harm their sanctity.

One question arises. Is this rule applicable only to the places of worship belonging to revealed religions or does it include other religions too? The verse 40 of the chapter 22 of the Quran, quoted at the beginning of this discussion uses terms like 'Sawami', 'ba`i', 'Salawat' and mosques. 'Sawam`i' is the plural 'sowm`ah which means a high-raise building. This Arabic term applies to the places of worship used by the Christian monks and the Sabaean hermits. 'Ba`i' is the plural of 'ba`iatun' which stands for a cathedral. 'Salawatun' is the name given to the place of worship used by the Jews; this term has been borrowed by the Arabs from Hebrew 'Salota'. Finally, Masajid (or mosques) used by Muslims is used.

It is stated about these places of worship that Allah protects them through the upholders of Truth and will do so even now. Otherwise, God's rebels and enemies will totally destroy them. On the basis of this, the exegetes have drawn the conclusion that the issue of protection is applicable only to those places of worship mentioned in the verse and not to others. Ibn Atiya says, "Here in this verse, places of worship of those communities are mentioned who had been receiving revealed Books from ancient times. There is no mention of the Zoroastrians or Polytheists because they are not a part of those communities whom we are obliged to support, and Allah is remembered only in those communities where divine laws are prevalent."[1]

[1] Qurtubi, Al Jami li Ahkam al Quran: 14/17

But then, Abul Aalia is of the opinion that 'Salawat' applies to the Sabaeans` place of worship.[1]

There is no absolute proof that the Sabaeans have ever had a revealed Book; there is just a possibility. Such possibilities exist for many other ancient religions. In the Quranic verse under discussion, it is stated Allah is remembered abundantly. Such a statement is not made with regard to other places of worship, and so to assert that in all places of worship God is remembered most often cannot be true.

However, from the point of view of Hazrat Abul Aaliya, it can be conceded that Islam has not permitted the demolition of the places of worship belonging to those who are included among the people of the Book.

Ibne Khwaiz Mandad says that in the verse 40 of the 22nd chapter of the Quran, the demolition of the monasteries and churches of the Dhimmis, their places of worship and their Fire-temples is not permitted.[2]

In this connection, scholars of jurisprudence have given some details.

Allama Ibne Qudama Hambali has categorised Muslim cities and, while describing them, says that in the cities conquered by force, non-Muslims will not be allowed to build new places of worship. However, on the basis of proofs, he asserts that the old places of worship will continue to function. In this connection, he has quoted a Tradition, narrated by Hazrat Abdullah bin Abbas (May Allah be pleased with both):

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[1] To know more about the opinions of the scholars of early times, please consult Tabari, Jam'i Al Bayan fi Tafseer al Quran, Vol. 9, part 17, pp. 125,126, ancient edition.

[2] Qurtubi, Al Jami li Ahkam al Quran: 12/70

أيّما مصر مصّرته العجم ففتحه الله على العرب فنزلوه فان للعجم ما فى عهدهم۔

When Allah grants victory to Arabs and they reach a town established and populated by non-Arabs, their heritage should not be damaged by the Arabs.

In the same way, Hazrat Umar bin Abdul Aziz (Rah) wrote to his governors, "No place of worship, no church and no fire-temple should be demolished." Allama Ibne Qudama Hambali says that there is a general consensus among the scholars on this issue and so these places of worship were allowed to remain in the Muslim cities and no one ever made an adverse remark against their presence.[1]

Can New Places of Worship be built by the Dhimmis?

Scholars of jurisprudence have discussed the question whether non-Muslims will be permitted to construct new places of worship in the Islamic State and come to the conclusion that in the urban areas they will not be permitted to build their places of worship, particularly in those cities which are built by Muslims (for the fulfilment of their objectives and needs) like Kufa and Basra because these cities function as the cultural centres of Islam. However, in the ancient cities, the already existing places of worship will continue to remain functional. For example, there is the Roman Church in Baghdad.

In rural areas and in places where the Dhimmis have large populations, they can build their places of worship.[2]

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[1] Ibn Qudama, Al-Mghni: 13/240

[2] For details, see Hidaya with Fath al Qadeer: 2/577, 4/377.379 Ibn Qudama, Ab Mughni: 13/239,240

If the people of a particular area sign a memorandum of understanding with the Islamic State on condition that a whole area or a part of it will be under their occupation and they will pay tribute in lieu thereof, then the land will be theirs in accordance with the MOU and they can then build their places of worship and churches.[1]

The opinions of these scholars must have been formed under the influence of the political considerations of their era. It goes without saying that these opinions are out of sync with the concept of religious freedom. If a city or an area is to all intents and purposes a cantonment or has been constructed for special political needs, then it falls under a different category altogether. Otherwise, in modern era, habitations are marked by ethnic diversity and, in large cities, multi-religious communities live together. If any community proposes to build a place of worship, then they should have full freedom to do so. Denial of such a freedom cannot be proved from the noble Quran or any authentic Tradition.[2]

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[1] Al-Mughni: 13/240

[2] To ascertain the weakness of the statements presented in this connection, see Nasb al Raya: 3/453, 454

Islamic State and International Relations

On certain occasions, an effort is made to create an impression that the Islamic State per se is nothing but an existential threat to non-Muslim states, that it will not tolerate any other political power or state, and that it will not rest content until other states are deprived of political authority and are rendered submissive to it. It seeks to impose a severe state of war at the global level.

Such an impression is absolutely false and deliberately created without any basis, such a state of affairs is neither possible nor in harmony with Islamic precepts and history.

War - A short-lived measure

Islam declares that the basis of international relations should be peace and not war. It holds the view that any state can pass through conditions of war but war cannot be a constant variable. It really goes against the grain to keep war constant. War should be a temporary phenomenon which sometimes breaks out. The Islamic State does not come into existence only to confer permanence on war. Allah has promised the people of faith that He will bestow on them occupation of the earth and authority. This promise is couched in these words:

وَعَدَ اللّٰهُ الَّذِيْنَ اٰمَنُوْا مِنْكُمْ وَعَمِلُوا الصّٰلِحٰتِ لَيَسْتَخْلِفَنَّهُمْ فِي الْاَرْضِ كَمَا اسْتَخْلَفَ الَّذِيْنَ مِنْ قَبْلِهِمْ ۪ وَلَيُمَكِّنَنَّ لَهُمْ دِيْنَهُمُ الَّذِي ارْتَضٰى لَهُمْ

وَلَيُبَدِّلَنَّهُمْ مِّنْ بَعْدِ خَوْفِهِمْ أَمْنًا ۚ يَعْبُدُونَنِي لَا يُشْرِكُونَ بِي شَيْئًا ۚ وَمَنْ كَفَرَ بَعْدَ ذَٰلِكَ فَأُولَٰئِكَ هُمُ الْفَاسِقُونَ ﴿٥٥﴾ (النور)

"Allah has promised those of you who believe and do righteous deeds that He will surely bestow power on them in the land even as He bestowed power on those that preceded them, and that He will firmly establish their religion which He has been pleased to choose for them, and He will replace with security the state of fear that they are in. Let them serve Me and associate none with Me in My Divinity. Whoso thereafter engages in unbelief (ingratitude), such indeed are the ungodly." *(24:55)*

The purpose of authority and settlement across the earth is shown to be the securing of peace for the believers so that they can worship and serve the one and only Allah in an undisturbed state. This declaration is proof enough that the Islamic State will endeavour to promote an atmosphere of peace and maintain it, and will not create conditions of war within and without its territories. It will be eager for peace and not desirous of war. It will eliminate the sources of mental agitation and a state of unease and provide an atmosphere of serenity in order that man could dedicate his life to Allah the Exalted in a state of unalloyed freedom.

Hostilities can end

Islam clearly points out to its followers that, even in hostilities one should not ignore the possibility that the enemy nation or state now engaged in armed conflict with the Islamic State need not continue its hostility and enmity at all times. Circumstances may change for the better. Today's enemies may turn out to be tomorrow's friends. Our conduct should not be

so skewed as to shut out such a possibility completely. All the doors to friendship should not be closed. Allah says:

عَسَى اللّٰهُ اَنْ يَّجْعَلَ بَيْنَكُمْ وَبَيْنَ الَّذِيْنَ عَادَيْتُمْ مِّنْهُمْ مَّوَدَّةً ۭ وَاللّٰهُ قَدِيْرٌ ۭ وَاللّٰهُ غَفُوْرٌ رَّحِيْمٌ ۝ (الممتحنة)

It may well be that Allah will implant love between you and those with whom you have had enmity. Allah is Most Powerful; and Allah is Most Forgiving, Most Compassionate. *(60:7)*

The historical background for this Verse is that Muslims had continuously endured intense persecution and torture at the hands of the Makkans and, consequently, it was neither unnatural nor impossible for Muslims to harbour tremendous ill-will against them. It was too difficult to put a leash on it and that too during the state of war. In those circumstances, the good news was given that, if Allah willed, the dark clouds would recede soon and the silver lining would emerge. As prophesied, the tide turned, hostilities ceased, the lamps of love and affection were kindled. From this one may gauge the trend that Islam envisages and encourages in international relations.

Regulations for Asylum-Seeker

The Islamic State keeps its doors open for the citizens of the enemy state to carry on activities like free movement across the border, seeking knowledge, trade and commerce, contacts with embassies, etc., as these activities will enable them to study the teachings of Islam and the general behaviour of the Muslims. This freedom is curtailed only when the national and political interests are threatened. Some details in this regard are furnished below.

If a person belonging to a warring nation, which is actively engaged in an armed conflict, is interested in studying Allah's Book and its commandments, the standing order is that, even in such conditions, an opportunity should be offered to satisfy his interest; he may enter the Islamic State and study Islam, its teachings, its ethical, legal, cultural and social aspects until he is satisfied, and then he may try to reach an infallible conclusion in an earnest manner. For this purpose all facilities will be given but no compulsion will be employed to accept Islam. It is because it is against the Islamic principle of freedom. After the time allotted to him is over, arrangements will be made to escort him back safely to his native country.

وَإِنْ أَحَدٌ مِّنَ الْمُشْرِكِينَ اسْتَجَارَكَ فَأَجِرْهُ حَتَّىٰ يَسْمَعَ كَلَامَ اللَّهِ ثُمَّ أَبْلِغْهُ مَأْمَنَهُ ذَٰلِكَ بِأَنَّهُمْ قَوْمٌ لَّا يَعْلَمُونَ ۝٦ (التوبة)

"And if any of those who associate others with Allah in His Divinity seeks asylum, grant him asylum that he may hear the Word of Allah, and then escort him to safety for they are a people who do not know." *(9:6)*

Allama Ibne Jarir Tabari says that the polytheists against whom the order of Jihad was passed were the same people about whom the order was given that, if anyone of them sought asylum to understand Islam, asylum should be given to him. And, if he did not embrace Islam, he should be allowed to reach his area safely. During the whole period, no citizen of the Islamic State was permitted to trouble him in any manner.[1]

Allama Abu Bakr Jassas interprets this verse from the Hanafi School's point of view. His discussion highlights the following points:

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[1] Tabari, Jam'i al-Bayan: 14/138

1. If a citizen of a warring nation seeks asylum in order to hear the Quran and get familiar with the arguments in favour of monotheism and of Prophets as the conduit for divine revelation and to understand Islam as the Religion of Truth, then it is permissible to grant asylum to him.
2. If a non-Muslim demands that we should convince him through reasoning and elucidate the concepts of monotheism and Prophet hood to him so that he could establish his faith on their basis then it becomes incumbent on us to furnish such rational proofs. Without doing so, a kafir (who has taken up arms) cannot be put to sword.
3. It is the duty of the Imam / an officer with effective authority to protect the citizen of the warring nation who has sought asylum and to ensure that no one is allowed to behave with him in an objectionable manner.
4. Another responsibility of the Imam is to protect the Dhimmis and to ensure that they are not harassed or ill-treated in any manner.
5. No citizen from the warring nation should be permitted to stay in the Islamic State for a long period. Only that much of time should be given to him as would enable him to fulfil his need. حَتّٰى يَسْمَعَ كَلَامَ اللّٰهِ "Until he hears the Word of Allah" are the words that imply as much. The order is that, when he has heard the Word of Allah, he should be sent back. Other scholars of the Hanafi school, therefore, say that permission to stay in Darul Islam cannot be given to a citizen of a warring nation without any reason and without any cause which necessitates his stay. He will be asked to return. In

spite of this order, if he continues to stay for a year, he will be treated officially as a Dhimmi and he will be obliged to pay tribute.[1]

Allama Qurtubi says that there is no difference of opinion about giving refuge to a citizen from a warring nation who seeks refuge from the Islamic State in order to understand the Quran and to get acquainted with its commandments. If he accepts Islam after hearing and applying his mind, it will be highly commendable. Later, he says,

ظاهر الأية انما هى من يريد سماع القرأن والنظر فى الإسلام فاما الأجازة لغير ذلک فانما هى لمصلحة المسلمين والنظر فى ما تعود عليهم به منفعة۔

"Though the verse concerned refers obviously to a citizen who wants to hear the noble Quran and to ponder over Islam, the question of providing asylum for any other purpose will be settled, keeping in view the interests of and benefits accruing to Muslims.[2]

This observation makes it clear that if a citizen of a warring nation desires to enter the Islamic State for any purpose other than the purpose of understanding the Quran and its teachings, his request will be considered in the light of the Muslims` interests and if the situation warrants it his request will be granted. As long as he stays in the Islamic State, he will be protected and sheltered by the state. It will be the responsibility of the State to ensure that he comes to no harm and that he returns safely to his own country when his purpose is fulfilled.

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[1] Jassas, Ahkam al Quran: 3/103,104

[2] Qurtubi, Al-Jami li Ahkam al Quran: 8/76

Allama Ibne Qudama Hambali has provided a few more details on this subject from the point of view of jurisprudence. Referring to the Quranic Verse under discussion, he says: If any person seeks asylum in order to hear the Quran and understand the Islamic Shariah, it is obligatory on the State to grant him asylum. Then he will be helped to reach his destination (his own country). On this issue, there is no difference to the best of my knowledge. Qatada, Mukhul, Imam Auzaa`ee and Imam Shafii have said the same thing. Hazrat Umar bin Abdul Azeez had sent an official communication to the government offices (throughout his caliphate).

Imam Auzaa`ee maintains that this official order is valid till the Doomsday. The promise of asylum is officially extended to an ambassador, a roving envoy and an asylum- seeker. Allah's Messenger (May Allah bless and greet him) used to grant asylums to ambassadors; he made no exception even to the two envoys of Musailama the Liar when they met him. He said, "Killing the ambassadors and envoys is against the protocol. Otherwise, I would have put you both to sword." This is an unavoidable necessity. If we kill their envoys, in retaliation they will kill our envoys. Then the very purpose of appointing ambassadors will be defeated."[1]

The contract of asylum, granted to an ambassador or an asylum-seeker, can be either absolute or conditional. That is, the contract can be valid for a fixed period or for an unspecified period. The fixed period can be short or long.

[1] Ibn Qudama, Al-Mughni: 13/79

Regarding the rights of such asylum-seekers, he writes: "Imam Auzaa'ee says that they can stay without paying Jizya during the period specified in the treaty of peace."

He writes further, "If a man from a warring nation secures visa and comes to stay in Darul Islam (Islamic State) and then keeps his property in the custody of a Muslim or a Dhimmi and lends money as a loan and then goes to his native place for trade or meeting with embassy officials or tourism or any other purpose and then returns to Darul Islam, the promise of protection given earlier will continue to be valid and his right over his property will be upheld. He is a Dhimmi in some respects. But if he decides to settle down in his native country (which is at war with Darul Islam), then the asylum given to him will be terminated but his property in Darul Islam will be preserved and if he demands its return from his native place, it will be sent back to him. If he wants to utilise his money in any manner like buying and selling or gifting, he can do so. If he dies in his native country, his property will be transferred to his legal heirs. But Imam Abu Haneefa and Imam Shafii hold the view that his legal heir in the warring country is not under the protection of the Islamic State and so his property cannot be transferred to such a legal heir."[1]

According to the Hanafi School, an asylum-seeker will be permitted to do business in Darul Islam and to spend money in charitable activities. As long as he resides in Darul Islam, he will enjoy the status of a Dhimmi. If he has no legal heir in Darul Islam, he can bequeath his entire property to a Muslim or a Dhimmi.

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[1] Qurubi, Al-Jami li Ahkam al Quran: 8/76

If he has a legal heir, he can donate one-third of his property to anyone he likes. If he wishes to donate some part of his property, that also will be implemented. The balance will be returned to his legal heirs living in the country at war with Darul Islam. Some Muslim scholars of jurisprudence may not recognize such legal heirs as legal heirs at all, still the asylum-seeker reserves the right to get his property returned. If a Muslim or a Dhimmi wishes to make a will favouring him, that will be honoured.

Treaties will be honoured

Peace and reconciliation treaties are likely to be signed between the Islamic State and the State which is not Islamic. It is compulsory to observe all the conditions embedded in the treaties.

Islam orders that treaties should be strictly observed and honoured. Treaties are not signed to be honoured in the breach and not in the observance as soon as an opportunity presents itself and to be sacrificed at the altar of insignificant gains. The clear instructions of Islam in this regard are presented below.

وَاَوْفُوْا بِالْعَهْدِ ۚ اِنَّ الْعَهْدَ كَانَ مَسْـُٔوْلًا ﴿٣٤﴾ (بنی اسرائیل)

"And fulfil the covenant, for you will be called to account regarding the covenant." *(17:34)*

A fundamental instruction:

يٰٓاَيُّهَا الَّذِيْنَ اٰمَنُوْٓا اَوْفُوْا بِالْعُقُوْدِ ۭ (المائدۃ:۱)

"Believers! Honour your bonds." *(5:1)*

وَاَوْفُوْا بِعَهْدِ اللّٰهِ اِذَا عٰهَدْتُّمْ وَلَا تَنْقُضُوا الْاَيْمَانَ بَعْدَ تَوْكِيْدِهَا وَقَدْ جَعَلْتُمُ اللّٰهَ عَلَيْكُمْ كَفِيْلًا ۭ اِنَّ اللّٰهَ يَعْلَمُ مَا تَفْعَلُوْنَ ﴿٩١﴾ (النحل)

"----And do not break your oaths after having firmly made them, and after having made Allah your witness. Surely Allah knows all that you do." *(16:91)*

People of faith are defined thus:

وَالَّذِينَ هُمْ لِأَمَانَاتِهِمْ وَعَهْدِهِمْ رَاعُونَ ﴿٨﴾ (المؤمنون)

"Who are true to their trusts and covenants." *(23:8)*

Promises are made and pledges are given at the individual level as well as at the group level. There can be a pledge between an individual and the State and at the international level too. The treaty is symbolic of mutual trust. Islam orders that the pledge should be observed in letter and spirit. The mutual trust between the two parties should not be betrayed.

Warning against Betrayal of Trust

Covenants between individuals and Memoranda of Understanding between institutions are being signed off and on in this world. When an individual or a party, sensing the weakness of the second signatory or having an axe to grind, takes recourse to levelling false charges or adopting deceit and goes to the extent of violating the most idealistic and historic pledge, such betrayal of trust is a demonstration of hypocrisy in the eyes of Islam; a believer has to strain every nerve to guard himself from the taint of hypocrisy. Allah's Messenger (Sal) has helped us to identify a hypocrite by enumerating some distinguishing characteristics of his. One of them is:

إِذَا عَاهَدَ غَدَرَ۔

when he makes a pledge, he goes against it.[1]

[1] Bukhari, Kitab al Jizya, wa Muslim, Kitab al Iman

Islam treats betrayal of trust as a serious crime because in the hereafter, it will result in most shameful humiliation. Hazrat Anas (Radi) narrates that Allah's Messenger (Sal) said:

لكل غادر لواء يوم القيامة يُرىٰ يوم القيامة يُعرَفُ بهٖ۔

"On the Day of Judgment, an emblem will be hoisted for one who breaks promises and violates pledges and that emblem will define and expose him prominently."[1]

Another Hadith with the same meaning has been conveyed by Hazrat Abdullah bin Umar (Allah be pleased with both). He says that the Allah's Messenger said:

لِكُلِّ غادر لواء ينصب لغدرته۔

There will be an emblem for every deceitful person (Who is not a man of his word) and that emblem will be installed for his deceit.[2]

The Hadith has been reported in the following words too.

إذَا جمع اللّٰه الاوّلين و الاٰخرين يوم القيامة يرفع لكل غادر لواء، فقيل هٰذه غدرة فلان بن فلان۔

"When Allah will gather the earlier and later generations of people on the Day of Judgment, a flag will be raised for every deceiver and it will be announced that this represents the deceit of this person whose father is so-and-so."[3]

The commander-in-chief of the army holds the flag in his hand, gaining prominence and distinction thereby. It was customary in Arabia to keep a flag in the open market or in a square where crowds gather and that flag would be in the name of the person notorious for breaking pledges and brazen disloyalty.

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[1] Bukhari, kitab al Jizya, Muslim, Kitab al Jihad.
[2] Bukhari, ibid., Muslim, kitab al Jihad.
[3] Muslim, ibid.

People would come to know the guilty one through this public humiliation. The Hadith signifies the fact that, on the Day of Judgment, when all the people who ever lived on the earth would assemble, the person who practised deceit and betrayed trust will have a flag erected for him and it will be made known to all that the flag belongs to the deceiver whose identity will be shown through his name and his father's name. The threats held out in these Traditions dealing with the violation of covenants are meant more for those people who violate political covenants than for those who break pledges at the general level, because when the ruler or the state violates covenants the consequences are catastrophic. The point that is driven home from this instruction is that, when the ruler of the Islamic State gives a pledge to his subjects, he must fulfil it irrespective of the fact whether they are non-Muslims or Dhimmis, and he must not be guilty of laxity in the vigilant protection of their rights.[1]

Islam gives importance to interpersonal pledges or to the covenant between the state and its citizens and makes the strict observance and honouring of international treaties more important because they have far-reaching consequences.

Hazrat Abdullah bin Abbas (May God be pleased with both) says that when a nation tramples upon international treaties, it invites self-destruction, and, in accordance with the divine Law, paves the way for the domination of the foe:

مَا خترقوم بالعهد الاّ سلّط الله عليهم العدو۔

[1] Nawawi, Sharh Muslim, vol. 4, part 12, pp,43,44

"When a nation violates its covenant, Allah deliberately imposes an enemy upon it."[1]

One can learn in good measure about the degree of importance that Islam attaches to official treaties and to no-war pacts by looking at the legal details of the issue of murder. If a Muslim gets killed at the hands of another Muslim accidentally in the Islamic State, in retribution the murderer will have to emancipate a slave and pay blood money to the heirs of the murdered person. If the murdered person is a citizen of a country in a state of war with the Islamic State, then the murderer will emancipate a slave but will not pay blood money. In contrast, if the murdered person belongs to a nation which has entered into an alliance with the Islamic State, then his heirs will get blood money and a slave will be emancipated too. (Quran, chapter 4, verses 91 and 92)

Hazrat Abdullah bin Abbas (Radi), Imam Sheubi (Rah) and Imam Nakh'ee maintain that the blood money of the murdered person will remain the same, whether he is a Muslim or a non-Muslim. The viewpoint of Imam Abu Haneefa (Rah) and of Sufyan Thauri is no different.[2]

Here is a widely-known incident. The Treaty of Hudaibiya was signed by the Prophet (Sal) and the polytheists of Makkah. One of the terms of the Treaty was that if a Muslim leaves Makkah for Madinah, he will not be given asylum but returned to Makkah and if someone leaves Madinah for Makkah, he will not be returned. The Companions found the harsh asymmetry inherent in this condition too humiliating to bear. Still the Treaty was orally agreed upon and not yet signed.

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[1] Muatta, Imam Malik, Kitab al Jihad.

[2] Qurtubi, Al-Jami li Ahkam al Quran: 5/210

At that juncture, Hazrat Abu Jandal burst upon the scene. He was in heavy chains and his appearance was pathetic. He made a fervent plea to the Prophet to not send him back to his tormentors. Abu Jandal's father was the chief negotiator and he reminded the Prophet of the said condition. The Prophet told him that the Treaty was not signed. Abu Jandal's father agreed but told the Prophet (Sal) that both parties had orally agreed and the oral agreement was binding too. The Prophet (Sal) had no other alternative but to abide by the oral agreement and so he addressed Abu Jandal,

انّا قد اعطينا هٰؤلاء القوم ماقد علمت، ولا يصلح لنا فى ديننا الغدر، و انّ الله جاعل لک ولمن معک من المستضعفين فرجاً و مخرجاً فانطلق الى قومک۔

You know the conditions of the Treaty that we have made with these people (of Makkah). It is extremely improper in our religion (Islam) to violate an agreement and to be disloyal and untrustworthy. Allah will devise a plan to help you and, along with you, other hapless people who still linger in Makkah. You had better go back to your people."[1]

Such incidents illuminate the pages of Islamic history. This example of honouring international treaties may hardly have a parallel anywhere else.

In regard to international treaties, some more instructions are as follows:

1. It is possible that the Islamic State may have signed a treaty of peace with one country and may be at war with another country. In such a situation, if a few individuals or a large group from the nation at war reach a country which has signed the treaty of

[1] Ibn Hisham, Sirat al Nabi: 3/374.

peace, they will be safe and secure because they will be treated as residents of that country and covered by the treaty of peace. No military action will be taken against them. The laws governing Jihad state that, when Jihad is being waged, the enemy should be fought everywhere and killed wherever he is found. After these instructions, the following verse is found,

إِلَّا الَّذِينَ يَصِلُونَ إِلَىٰ قَوْمٍ بَيْنَكُمْ وَبَيْنَهُمْ مِّيثَاقٌ ... (النساء:٩٠)

"unless it be such of them who seek refuge with a people who are joined with you by a covenant," (no war will be fought with them too.) *(4:90)*

2. If the Islamic State enters into an alliance with another country and a third country proposes to join the alliance, it will be allowed to do so. It will be allowed to ally with any one of the two states. Both the states will abide by the conditions that the third country has agreed to abide by. In the Treaty of Hudaibiya, there was a condition that every tribe was free to choose alliance either with Prophet Muhammad (Sal) or with the Quraish. In fulfilment of this condition, the tribe Banu Khuza'a allied with the Prophet and Banu Bakr threw in its lot with the Quraish.[1]
3. If a state wants to remain non-aligned and does not support either the Islamic State or the country engaged in war with it, it will be spared. A treaty will be signed with it on the basis of its non-alignment.

[1] Ibn Hisham, Sirat al Nabi: 3/374. This Treaty will be alluded to in another context.

...اَوْ جَآءُوْكُمْ حَصِرَتْ صُدُوْرُهُمْ اَنْ يُّقَاتِلُوْكُمْ اَوْ يُقَاتِلُوْا قَوْمَهُمْ ۭ وَلَوْ شَآءَ اللّٰهُ لَسَلَّطَهُمْ عَلَيْكُمْ فَلَقٰتَلُوْكُمْ ۚ فَاِنِ اعْتَزَلُوْكُمْ فَلَمْ يُقَاتِلُوْكُمْ وَاَلْقَوْا اِلَيْكُمُ السَّلَمَ ۙ فَمَا جَعَلَ اللّٰهُ لَكُمْ عَلَيْهِمْ سَبِيْلًا ۝ (النساء)

"Or those who come to you because their hearts shrink from fighting either against you or against their own people. Had Allah so willed, He would certainly have given them power over you and they would have fought against you. If they leave you alone and do not fight against you and offer you peace, then Allah does not permit you to harm them." *(4:90)*

When these people propose to observe non-alignment sincerely, then on that basis a treaty can be signed with them. It has to be remembered that if Allah had so willed, they would have turned up for an armed conflict. But, when they wish to keep aloof and offer reconciliation, then the offer should be welcomed. To spurn the offer is injudicious.

When will the treaty be abrogated?

When the other signatory to the treaty does not provide proof of sincerity, the signs of the likely violation of the treaty begin to emerge from his side, and he seems to indulge in conspiracy and secret plots, then the State has the right to unilaterally abrogate the treaty, but this should be done publicly and transparently. Without such open declaration it is not permissible for the State to initiate warfare against him.

وَاِمَّا تَخَافَنَّ مِنْ قَوْمٍ خِيَانَةً فَانْۢبِذْ اِلَيْهِمْ عَلٰي سَوَآءٍ ۭ اِنَّ اللّٰهَ لَا يُحِبُّ الْخَاۗىِٕنِيْنَ ۝ (الانفال)

"And if you fear treachery from any people (with whom you have a covenant) then publicly throw their

covenant at them so that the termination of the treaty is known equally to the two parties. Allah does not love the treacherous." *(8:58)*

In this verse, words فَانْبِذْ إِلَيْهِمْ عَلَىٰ سَوَاءٍ "Fan bith ilaihim'ala sawaa in" are used. Azhari, an expert linguist, says,

المعنٰی اذا عاهدت قوما فخشیت منهم النقض فلا توقع بهم بمجرد ذٰلک حتّٰی تعلمهم۔

that these words denote that, after signing a treaty, if you fear that the other party bids fair to break the accord, then on the basis of your suspicion, you should not attack until you make it known to the other party that the treaty has been scrapped.[1]

That is to say, when the treaty is abrogated, the other signatory should be fully informed and he should not be in a state of confusion. Just as the matter is explicit to you that the accord has broken down, it should be equally explicit to the other party too.

There was a peace accord for a specific period between Hazrat Muawiyah (Radi) and the Romans. He led an army and wanted to attack the Romans without delay as soon as the treaty came to an end. In the meantime, a horseman approached the leader of the army and said, "Allahu Akbar God is the greatest. Honour the treaty. No deception is allowed." He was Hazrat Amr bin Abasa. Hazrat Muawiyah demanded an explanation.

Then he replied that he heard the Prophet (Sal) saying that "when an accord is signed with a community, as long as it lasts, it should be honoured and the community should not be attacked," or "the treaty should be so abrogated that the other party remains in no doubt whatever and, as we know clearly

[1] Ibn Hajar, Fath al Bari: 6/200

that the treaty has come to an end, the other party should know the fact with the same clarity." After hearing the Hadith, Hazrat Muawiyah (Radi) returned from the enterprise.[1] Hazrat Amr bin Abasa described the journey of Hazrat Muawiyah (Radi) with the intention of attacking the Romans on completion of the period specified in the treaty as a clear case of the violation of the treaty.

This is applicable to a situation when the signs of the violation of the treaty are beginning to emerge. But, when the treaty is being openly violated and steps are being taken to hurt the interests of the State, then it will be clearly taken for granted that the treaty has lost its validity on its own and the Islamic State will be free to take measures for its own safety. One of the measures will be to declare war on its enemy.[2]

On reaching Madinah, Allah's Messenger (Sal) signed a treaty with the Jews. One of the conditions of the treaty was that the Muslims and the Jews would have their relationship based on mutual goodwill and no party would resort to harm the other and they would together face the enemy.[3] However, the Jews openly violated the treaty. During the Battle of Badr, they supplied arms to the polytheists of Makkah. When they were reminded of the said condition of the treaty, the Jews apologised that they had committed a blunder in this matter. The treaty was renamed. Then, they instigated the enemy to launch an attack on Madinah

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[1] Abu Dawood, kitab al Jihad, Tirmidhi, kitab al Siyar, Musnad Ahmed: 4/112,281

[2] Qurtubi, Al-Jami li Ahkam al Quran: 8/22

[3] The details of the treaty will be given later.

and there ensued the Battle of the Ditch in which they openly supported the attackers.[1]

In this way, when the betrayal of trust was demonstrated twice, then war was declared thus:

إِنَّ شَرَّ الدَّوَآبِّ عِندَ اللهِ الَّذِينَ كَفَرُوا فَهُمْ لَا يُؤْمِنُونَ ﴿٥٥﴾ الَّذِينَ عَٰهَدتَّ مِنْهُمْ ثُمَّ يَنقُضُونَ عَهْدَهُمْ فِي كُلِّ مَرَّةٍ وَهُمْ لَا يَتَّقُونَ ﴿٥٦﴾ فَإِمَّا تَثْقَفَنَّهُمْ فِي الْحَرْبِ فَشَرِّدْ بِهِم مَّنْ خَلْفَهُمْ لَعَلَّهُمْ يَذَّكَّرُونَ ﴿٥٧﴾ (الأنفال)

"Surely the worst moving creatures in the sight of Allah are those who definitively denied the Truth and are therefore in no way prepared to accept it, (especially) those with whom you entered into a covenant and then they broke their covenant time after time and who do not fear Allah (or the consequences of violating the covenant). So if you meet them in war, make of them a fearsome example for those who follow them that they may be admonished." *(8:55-57)*

After the Jewish conspiracies, there remained no justification for the continuance of the covenant. The Jewish conduct proved that the Islamic State did no wrong by launching military action against them.

Some International Treaties

The treaties signed by Allah's Messenger (Sal) are of various kinds. The conditions varied too in accordance with the situation. In some treaties there was stress on peace and compromise. In some others economic matters like kharaj and Jizya were included. In some treaties mutual co-operation was stressed. Here examples of a few treaties are presented.

The Hegira took him to Madinah. Allah's Messenger brought the natives of Madinah (Ansar) and

[1] Raazi, Al Tafseer al Kabeer: 4/390

those who came from outside (Mohajirs) together by making these tribes conform to a treaty. In addition, a treaty was signed with the Jews. Both treaties formed a part of a more detailed treaty. Some sections of a treaty with the Jews are as follows:

إنّ يهود بنى عوف أمة مع المؤمنين۔

لليهود دينهم واللمسلمين دينهم۔

إنّ بطانة اليهود كأنفسهم۔

و إنّ على اليهود نفقتهم و على المسلمين نفقتهم، و إنّ بينهم النصر على من حارب علىٰ هٰذه الصحيفة، و إنّ بينهم النصح و النصيحة والبر دون الاثم، و انه لم يأثم امرء بحليفه، و ان النصر للمظلوم۔

إنّ اليهود ينفقون مع المؤمنين ماداموا محاربين۔

و ان يثرب حرام جوفها لِاَهل هٰذه الصحيفة۔

و انهٗ ما كان بين اهل هٰذه الصحيفة من حدث او اشتجار يخاف فساده و ان مردّه الى اللّٰه عزو جل و الى محمد رسول اللّٰه صلى اللّٰه عليه وسلم۔

The Jews of Abu Awf (including other tribes) and Muslims together constitute a nation.[1]
The Jews will subscribe to their religion and Muslims to their own.
Those who enjoy deep and durable relations with the Jews will be treated as part of the Jewish community.

[1] This means, as Allama Abu Ubaid Qasim bin Salam has interpreted that when the Jews face war, Muslims will extend financial cooperation to them in fulfilment of the conditions entered therein. As far as religion is concerned, their religions are different as the following sentence clearly indicates. Kitab al Amwal: p.197

The Jews and the Muslims will concern themselves with their respective expenditures. The signatories to the treaty will cooperate with each other to face the common enemy, when he attacks. Cooperation, mutual welfare and sincerity will characterise their relationship. Righteousness and decent behaviour will hinder the pursuit of evil. No one will adopt an improper conduct towards a person with whom he has signed a treaty. Support will be extended to a victim of injustice. In the event of war, Jews will bear the expenditure along with Muslims.

For parties to the covenant, Madinah will be a holy centre.

If there arises some controversy or dispute between the parties to the covenant, and it threatens to snowball into a breakdown of a law and order situation or into a communal riot, the dispute should be referred to Allah the Exalted and Muhammad, His Messenger (for final arbitration).[1]

The Jewish population was separate from the Ansari population. The Jews were people of the Book. As a result there would have been much difference between the state laws of the Jews and those of the Ansars. From that point of view, it will be justified to describe this treaty as an international treaty, (as the Jews and the Ansars were two different nations). There is another angle. In this treaty, Madinah has been described as a holy centre for all and Allah and His Messenger are described as the final arbitrators when a dispute arises. As head of the State, Allah's Messenger gave the Jews freedom of religion and ensured their rights and included them in shouldering the responsibility of protecting the State. In the light of

[1] Ibn Hisham, Sirat al Nabi: 2/119-123, Kitab al Amwal: pp, 195-197

this aspect, this treaty can be described as a treaty of cooperation among various tribes and religious groups.

The Jews did not honour the treaty, and got involved in hatching plots and lent support to the enemy on two occasions. Consequently, the treaty was abrogated and they waged war. Allah's Messenger (Sal) wanted to exile them from Madinah but they requested him to allow them to remain in Madinah and they promised that half the produce from farms and gardens will be turned over to him. Their request was accepted but he told them plainly that as long as it pleased him they would be allowed to remain in Madinah. The Jews continued their conditional stay until Hazrat Umar (Radi) relocated them in Syria during his caliphate.[1]

From the beginning, - the nature of the treaty was different. In Dhi Q'adah, 6 A.H., Allah's Messenger (Sal) left in the company of his followers for Makkah with the intention of performing Umrah. But at a place called Hudaibiyah, the polytheists of Makkah stopped him from entering Makkah. Instead, a compromise was arrived at between him and the Makkans. This covenant is known as the treaty of Hudaibiyah. Some conditions of this treaty have already been mentioned. Some other conditions are as follows:

The parties agreed to maintain ceasefire for ten years so that people could live in peace. During this period, any kind of military activity against one another would be strictly eschewed, and there would not be any kind of secret moves or conspiracy.

Prophet Muhammad (Sal) was asked to return to Madinah from Hudaibiyah that year and should not

[1] Bukhari, Kitab al Harth wa al Muzara'ah Muslim, kitab al Musaqat.

perform umrah. They could return the following year for umrah and stay in Makkah for three days. They should be unarmed. The swords should be sheathed. Each rider could carry only the most essential luggage; the rest should be discarded.

He was not allowed to take any Makkan with him, but if any companion of his was willing to stay in Makkah, he had no power to dissuade him.[1]

There is asymmetry in the treaty on the face of it between the parties. The arbitrary demands of the Quraish were agreed to. Some companions, therefore, felt unhappy and were dismayed. But, at that time, conditions demanded only that line of action. The State, however, reserves the right to enter into such a covenant when the situation so demands. This treaty later turned out to be a springboard for further victories.

Imam Abu Yusuf has quoted the treaty in detail. At the beginning of his quotation he writes:

قد وادع رسول الله ﷺ قريشا عام الحديبية و امسک عن محاربتهم فللإمام ان يوادع اهل الشرک اذا کان فی ذٰلک صلاح الدّين و الاسلام و کان يرجو ان يتالّفهم بذٰلک علی الاسلام۔

"Allah's Messenger entered into a treaty with the Quraish during the year of Hudaibiyah and renounced war with them. Therefore, the Imam has a right to make a compromise with people who associate partners with Allah, if there are bright prospects for the faith of Islam and there is a hope that they will thus gain more familiarity with Islam and come closer to it."[2]

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[1] Bukhari, Kitab al Maghazi. Muslim, Kitab al Jihad, Sirat al Nabi,
[2] Kitab al kharaj, p.207

There is no economic aspect to this treaty. To establish peace, Allah's Messenger (Sal) has not made a financial offer, nor has the Quraish set such a condition. The accord without economic aspects can always be signed when it is the need of the hour. Representing the Shafii viewpoint in this regard, Allama Suyuti says:

إنّ الهدنة تعقد بغير مال۔

"Compromise without money can be achieved."[1]

Scholars of jurisprudence differ on the question whether compromise can be achieved by appeasing the enemy through cash payment. Some scholars are of the opinion that it is impermissible, because it demonstrates the State's vulnerability and militates against its dignified status. Imam Auza'ee says, "Without payment, compromise with the enemy is allowed, as the treaty of the Hudaibiuyah shows. If there is some necessity, then the enemy can be paid and appeased. Otherwise it is not in order." Imam Shafii says, "Muslims are weak and are not in a position to attack the enemy, then compromise can be sought without payment. If a Muslim dies in the way of Allah, he attains martyrdom and so there is no need to get panicky. Islam is far too sublime a religion to put a Muslim under the obligation of paying an enemy and requesting him to desist from attacking. However, if the enemy has overwhelming numbers and there is a fear that the Muslims will be eradicated and totally decimated, then there is some kind of necessity and helplessness requiring a change in strategy. Similarly if a Muslim is taken hostage and his release is possible

[1] Jalaluddin Suyuti, Al-Ashbah wa al Nazaair, p.527.

only through ransom, then it is permissible for him to pay the ransom."[1]

This makes it clear that under compelling circumstances the enemy can be appeased through the payment of ransom. If the Islamic State takes a step of this nature keeping in view the circumstances and capacities and the interests of the community, it will not be illegal as per Shariah. Allama Suyuti says, that one of the principles of Shariah is that in order to avoid a great evil, a lesser will can be endured. He has given an example too.

ولو احاط الكفار بالمسلمين ولا مقاومة بهم جاز دفع المال اليهم و كذا استنقاذ الاسرى منهم بالمال اذا لم يمكن بغيره لان مفسدة بقائهم فى ايديهم و اصطلامهم للمسلمين اعظم من بذل المال۔

"If the Kafirs surround the Muslims and the latter are not able to fight, then the escape from this predicament it is permissible to buy freedom through payment. If the prisoners cannot be released without giving money, (then in that situation, it is permissible to pay money to get the prisoners released) because the possibility of the detention of Muslims as prisoners and their annihilation is too dreadful to bear in comparison with the giving of money to release them.[2]

Allama Abu Ubaid says that if the Imam or Head of the State realizes that the enemy's victory over the Muslims can be avoided by paying ransom, he has the right to decide in favour of payment After all the Imam is the custodian of the security of the Muslims and for the sake of security he can take such a decision.[3]

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[1] Fathul Bari: 6/198.
[2] Suyuti, Al Ashbah wa al Nazair, p.87.
[3] Kitab al Awwal p.158.

Allama Ibne Qudama Hambali says that when payment becomes unavoidable and there is the fear of the annihilation or imprisonment of the Muslims, then it is legal to secure a compromise through payment of money. Just as an individual can pay ransom to buy peace, then the permissibility of the state of pay for peace cannot be denied. Even if humiliation and indignity become prominent in such payments, then escaping from slaughter, imprisonment and slavery serves an ideal purpose. For its sake, humiliation could be endured. Allama Abu Ubaida and Allama Ibne Qudama narrate the following incident in support:

On the occasion of the Battle of the Ditch, different tribes encircled Madinah and attacked it simultaneously. Their siege of Madinah lasted almost a month. When the crisis reached its point of climax, Allah's Messenger (Sal) contacted' Uainah bin Hasan and Harris bin Murri, who were chieftains of the tribe of Ghatafan and offered them one-third of the total produce of the dates of Madinah if they abandoned the company of the invading tribes and left for their place accompanied by their followers. This offer had reached the stage of a written document. Parties and witnesses had not signed them. The Prophet (Sal) had proposed the offer in order to persuade them. Before taking a final call, he invited the Ansari leaders, Sa'ad bin Muaz (Radi) and Sa'ad bin Ubada for consultations. They asked him, "Is it your wish that we should agree to your proposed plan? Or, is it Allah's commandment the execution of which is mandatory on us? Or is it just an initiative of yours to safeguard our interests?" He replied, "I swear by Allah that I thought of this proposal in order to benefit you. All the arrows of Arabia have one target and it is you. Tribes from all

sides have pounced on you. In such a crisis I want to weaken this force to some extent." Both of them submitted, "O Allah's Messenger! We and they believed in many gods. We were habituated to idol-worship. We did not worship Allah. Indeed, we were not even aware of Him. During that period too, no one dared to lay hands on our dates except when the outsiders came as guests or as buyers of dates. Now that Allah the Exalted has given us new strength through Islam, vouchsafed guidance to us, and, through the religion of Islam and through you, has blessed us with pre-eminence, are we to make a submissive offer of our produce (to our enemies)? We will only raise our swords against them and keep fighting until Allah's arbitration clinches the issue." Allah's Messenger (Sal) accepted their viewpoint by saying, "You have assessed the situation better." Hazrat Sa'ad bin Muaz took the written document and erased the writing on it and said, "Let them do whatever they want to do against us."[1]

Allama ibn Qudama Hambali says, "If seeking compromise through money per se was illegal, then he (Sal) would not have presented his proposal to Hazrat Sa'ad bin Muaz (Radi) and Hazrat Sa'ad bin Ubada for their opinion."[2]

Swapping of Prisoners of War

To swap the prisoners of war or get them released, international treaties are signed. The Islamic State can sign such treaties. It will do its utmost to get its prisoners of war released. Allama Ibne Qudama Hambali says,

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[1] Ibn Hisham, Sirat al Nabi: 3/239, Kitab al Amwal, pp. 158,159
[2] Ibn Qudama, Al-Mughni: 13/156

يجب فداء اسرىٰ المسلمين اذا امكن۔

"If there is such a possibility, it becomes obligatory on the part of the Islamic State to get the Muslim prisoners released."

He says further, "That was the opinion of Hazrat Umar bin Abdul Azeez, Imam Malik and Is-haq bin Rahwiya."[1]

Some incidents in this connection are presented here.

Hazrat Salama bin Akw'a (Radi) reports that, in a military expedition led by Hazrat Abu Bakr (Radi), they attacked the enemy. After the expedition, the leader gave him a slave-girl from the tribe of Banu Fazarah as his share in the spoils of war. She was very beautiful. He took the girl to Madinah. In the market, he met Allah's Messenger (Sal). He addressed me, "Salama, give this girl to me." And on the following day too he made the same request again. "Then he replied, "O! Allah's Messenger, this girl is yours; I have had no sexual contact with her." Then he took the girl from Salama and gave her to the enemies to get Muslim prisoners in Makkah released.[2]

Hazrat Imran bin Hosein (Radi) says that Allah's Messenger (Sal) surrendered a kafir to get two Muslim prisoners released.[3]

Can the Islamic State release the prisoners belonging to the enemy state in lieu of money? Scholars of jurisprudence differ in their replies. Imam Malik, Imam Awzaa'ee and Sufyan Thauri do not approve of such a swap. They feel that such a step will

[1] Ibid, 13/135
[2] Muslim, Kitab al Jihad wa al Siyar. Abu Dawood, Kitab al Jihad.
[3] Tirmidhi, Kitab al Siyar.

increase the manpower of the enemy state. But Hazrat Hasan Basri considers such a step to be quite correct. The following incident confirms his viewpoint. Hazrat Abu Musa Ash'ari took ransom and freed forty prisoners who were noted for their horsemanship and marksmanship in archery. Hazrat Umar (Radi) questioned him about his action. In self-defence he said, "They were so skilled that they could have hoodwinked our army too and so I got rid of them by securing ransom, and distributed it among Muslims in accordance with Shariah. Hazrat Umar (Radi) agreed with him.[1]

No Military Action against a nation which takes no military action against us.

When a country poses no threat to the Islamic State and ground realities warrant that the Islamic State's relationship with it should be characterised by peace, then unnecessary struggle against it will not be initiated; Abyssinia (Ethiopia) and Turk are good examples. Allah's Messenger (Sal) instructed,

اترکوا الحبشة ما ودعوکم و اترکوا الترک ماترکوکم۔

"Spare Abyssinia as long as they leave you alone. Likewise, spare Turk as long as they spare you."[2]

It is clearly stated in this Tradition, that as long as these states remain uninvolved in the affairs of the Islamic State and keep themselves aloof, the question of confrontation does not arise. Treaties of peace can be signed with such states too. But if they launch campaigns against the Islamic State at some stage and make an attack on it, then the defence of the Islamic

[1] Abu Ubaid, Kitab al Amwal, p,122
[2] Abu Dawood, Kitab al Malahim.

State becomes urgent, as per Islamic Shariah. The attack has to be repelled with all the tremendous power at its command.

Undoubtedly, Islamic State is an ideological state but to project it as a war-mongering state is an act of gross injustice. It has not made war compulsory in all circumstances and it has not declared war on every country. It acknowledges that freedom of thought and action is the fundamental right of man. For the sake of that freedom, it has taken recourse to the method of communication and persuasion and, through that method alone, it seeks to change the scenario in its favour. In the presence of diverse conditions, it has resorted to steps like war and reconciliation too; signed treaties of peace and security and followed the policy of neutrality. Even though its political activities are governed by a vast cosmic concept, its own interests are not overlooked nor can it be expected to do so. Every state of this world gives priority to its own interests while negotiating international treaties. The same right should be extended to the Islamic State that it can protect its own interests both in international matters and while taking decisions. The Islamic State should not be put under pressure to ignore its own interests.

Background of the Rules for Restricted Contacts with Non-Muslims

(Explication of Some Verses of the Quran)

In spite of all the differences in the area of belief and faith with the unbelievers, Islam has instructed us uniquely to keep in touch with them and to grant them their rights. After having gained this knowledge, some people find it expedient to raise a question; the holy Quran has instructed Muslims to keep non-Muslims segregated and to avoid contacts with them. How can one overlook such an instruction? The gravity of the situation increases when orders are passed to declare war on the opponents. This question is raised repeatedly and in various ways as though the core teaching of the Quran was none other than to keep non-Muslims constantly engaged in blood and gore and the Quran was revealed just to order that one who does not accept its authority should be put to sword.

Under what circumstances were these rules promulgated?

The context and circumstances in which the order, that contacts with non-Muslims should be avoided, occurs in the holy Quran are quite different. If this difference is not kept in view, there is a possibility of misunderstanding, and if it is deliberately set aside, it will result in an interminably long series of irrelevant objections. Actually this difference is being ignored in order to cover the crystal clear precepts of Islam with

dust and it is being deliberately done with that sinister purpose. To comprehend these verses, they should be elucidated in the light of the conditions in which they were revealed.

Conduct of the opponents and their ambitions

One has to recall the earliest era of Islamic history, when its message was slowly gaining popularity and a very small state came into existence in Madinah. This incident put the opponents in disarray and a tumult resulted and the storm of opposition began to blow with greater ferocity from all directions. The polytheists, the Jews and the Christians sank their differences and forged an alliance against Islam. A network of conspiracies was laid out and ushered in war conditions on a permanent basis. Whatever came in handy to decimate Islam and Muslims was adopted without reservation.

This is how open enemies behaved. There were hypocrites who were self-servers, and they outwardly demonstrated their love for Islam and their sympathy, sincerity and love for Muslims but at heart they were hand in glove with the opponents whom they lent their whole-hearted support and were embodiments of empathy towards them.

Instructions to avoid the enemies of faith

It was in these conditions that Muslims were instructed to be steadfast in faith, the demands of faith and belief were elucidated, and Muslims were told that they should keep aloof from those people who were enemies of Islam and who were determined to throw Islam out root and branch. Maintaining intimate

relationship with them and flocking like birds of a feather will be a negation of faith.

The hypocrites were exposed and sincere Muslims were alerted against their evil machinations. They are snakes in the grass and can be more lethally dangerous than open enemies.

Establishing rapport with such declared and hidden enemies of Islam is a negation of faith and, even from a purely political point of view, is fatal and highly catastrophic. This may bring about serious dangers to the Islamic State. Protecting it should be the top priority. No government in the world will grant permission to its citizens to establish contacts with the enemies, to carry on confidential dealings with them, to supply secret information to them, and to participate in their direct or indirect conspiracies. As regards the order given to Muslims to avoid intimate friendship with the opponents, the background for such an order is found either in the preceding verses of the Quran, or in the succeeding verses and sometimes within the verses containing the order. Some such verses with necessary explanation are being presented here:

يٰٓاَيُّهَا الَّذِيْنَ اٰمَنُوْا لَا تَتَّخِذُوْا بِطَانَةً مِّنْ دُوْنِكُمْ لَا يَاْلُوْنَكُمْ خَبَالًا ۭ وَدُّوْا مَا عَنِتُّمْ ۚ قَدْ بَدَتِ الْبَغْضَاۗءُ مِنْ اَفْوَاهِهِمْ ۠ وَمَا تُخْفِيْ صُدُوْرُهُمْ اَكْبَرُ ۭ قَدْ بَيَّنَّا لَكُمُ الْاٰيٰتِ اِنْ كُنْتُمْ تَعْقِلُوْنَ ۝ هٰٓاَنْتُمْ اُولَاۗءِ تُحِبُّوْنَهُمْ وَلَا يُحِبُّوْنَكُمْ وَتُؤْمِنُوْنَ بِالْكِتٰبِ كُلِّهٖ ۚ وَاِذَا لَقُوْكُمْ قَالُوْٓا اٰمَنَّا ۖۚ وَاِذَا خَلَوْا عَضُّوْا عَلَيْكُمُ الْاَنَامِلَ مِنَ الْغَيْظِ ۭ قُلْ مُوْتُوْا بِغَيْظِكُمْ ۭ اِنَّ اللّٰهَ عَلِيْمٌۢ بِذَاتِ الصُّدُوْرِ ۝ اِنْ تَمْسَسْكُمْ حَسَنَةٌ تَسُؤْهُمْ ۡ وَاِنْ تُصِبْكُمْ سَيِّئَةٌ يَّفْرَحُوْا بِهَا ۭ وَاِنْ تَصْبِرُوْا وَتَتَّقُوْا لَا يَضُرُّكُمْ كَيْدُهُمْ شَيْـــًٔا ۭ اِنَّ اللّٰهَ بِمَا يَعْمَلُوْنَ مُحِيْطٌ ۝ (آل عمران)

"Believers! Do not take for intimate friends those who are not of your kind. They spare nothing to ruin you; indeed they long for you to suffer. Their hatred is clearly manifest in what they say, and what their breasts conceal is even greater. Now We have made Our messages clear to you; if only you can understand (the danger of their intimacy); Lo! it is you who love them but they do not love you even though you believe in the scriptures. When they meet you they say: We believe, "but when they are by themselves they bite their fingers in rage at you. Say: "Perish in your rage." Allah knows even what lies hidden in their breasts. If anything good happens to you, they are grieved; if any misfortune befalls you, they rejoice. Yet if you remain steadfast and mindful of Allah, their designs will not cause you any harm. Allah surely encompasses all that they do." *(3:118-120)*

The Role of the Jews, Christians, and Hypocrites

The verses quoted above refer to the conduct of the Jews. Hypocrites were totally hand in glove with them. The Jewish population lived in the suburbs of Madinah. The Jewish tribes lived all around Madinah. Muslims had been maintaining old ties with them. They were friends and neighbours. Business contacts and borrowing and lending were carried on in accordance with mutual agreements made. Consequently many sincere and unsuspecting Muslims had no inkling of the conspiracies being hatched by the Jews. To think of them as malicious and hostile appeared difficult. There was intermingling between the hypocrites and Muslims; they were related by blood and they had a variety of social relationships. These hypocrites, remaining within the fold of Muslims, were doing what the Jews were doing from

outside. The Quran exposed the sinister plans of the two groups and made it clear that their enmity and opposition were no longer concealed; instead, they became prominent through what they said and did. Victory to Muslims was a heartburn to them and they felt devastated. Misfortune to Muslims was music to their ears. When such was the case, it was not proper for Muslims to get emotionally and intellectually closer to the enemies of Islam, to assess them as men of goodwill towards Muslims and to make them trusted confidants. The background of the first of such verses is explained by Hazrat Abdullah bin Abbas (Radi) and his student Mujahid in these words:

نزلت فی قوم من المؤمنین کانوا یصافون المنٰفقین و یواصلون رجالاً من الیهود لما کان بینهم من القرابة و الصداقة والجوار والرضاع والحلف فنهوا عن مباطنتهم۔

"This verse was revealed in connection with some people from among the people of faith who were sincere and affectionate towards the hypocrites and maintained close links with some members of the Jewish community on the grounds that they had close proximity and friendship, they were neighbours, and they were allies and even shared the same woman's milk (in childhood). (Here in this verse) contacts of a deep nature are prohibited."[1]

In these verses, mention is made of the enmity and hostility of the Jews. The Christian's conduct was not much different on the whole. The polytheists were foremost in their hostility. All of them joined hands to create conditions of such an alarming nature that

[1] Ibn Jauzi, Zad-al-Maseer: 1/446. This narrative is shorter in Ibn Jarir. Jam'i ul Bayan: 7/140

Muslims had to be ordered not to get yoked to them. Therefore, this statement appears in one place:

يَٰٓأَيُّهَا ٱلَّذِينَ ءَامَنُوا۟ لَا تَتَّخِذُوا۟ ٱلْيَهُودَ وَٱلنَّصَٰرَىٰٓ أَوْلِيَآءَ ۘ بَعْضُهُمْ أَوْلِيَآءُ بَعْضٍ ۚ وَمَن يَتَوَلَّهُم مِّنكُمْ فَإِنَّهُۥ مِنْهُمْ ۗ إِنَّ ٱللَّهَ لَا يَهْدِى ٱلْقَوْمَ ٱلظَّٰلِمِينَ ﴿٥١﴾ (المائدة)

"Believers! Do not take Jews and Christians for your allies. They are the allies of each other. And among you, he who takes them for allies, shall be regarded as one of them. Allah does not guide the wrong-doers." *(5:51)*

Continuing the theme, the Quran states further:

يَٰٓأَيُّهَا ٱلَّذِينَ ءَامَنُوا۟ لَا تَتَّخِذُوا۟ ٱلَّذِينَ ٱتَّخَذُوا۟ دِينَكُمْ هُزُوًا وَلَعِبًا مِّنَ ٱلَّذِينَ أُوتُوا۟ ٱلْكِتَٰبَ مِن قَبْلِكُمْ وَٱلْكُفَّارَ أَوْلِيَآءَ ۚ وَٱتَّقُوا۟ ٱللَّهَ إِن كُنتُم مُّؤْمِنِينَ ﴿٥٧﴾ وَإِذَا نَادَيْتُمْ إِلَى ٱلصَّلَوٰةِ ٱتَّخَذُوهَا هُزُوًا وَلَعِبًا ۚ ذَٰلِكَ بِأَنَّهُمْ قَوْمٌ لَّا يَعْقِلُونَ ﴿٥٨﴾ (المائدة)

"Believers! Do not take for your allies those who make a mockery and sport of your faith, be they those given the Book before you or other unbelievers. Fear Allah if indeed you believe". And when you are called to pray, they take it for a mockery and sport. That is because they are a people who do not understand." *(5:57,58)*

In this delicately poised communal and religious situation, there was one kind of behaviour preferred by the hypocrites and there was another conduct represented by sincere Muslims. The holy Quran has eloquently conjured up a representation of both kinds of behaviour. About the hypocrites, it is stated that their hearts were devoid of the light of faith, they did not hesitate to ridicule religion, they were in a dilemma and were deprived of equanimity. Sacrifice and renunciation to achieve a sublime goal did not come easy to them. They were not prepared for even the most trivial of trials. They were not inclined towards Muslims; their sympathies were with the

enemies of the Muslims. Moreover, if there arose a dangerous situation, they would leave the enemies of the Muslims too in the lurch. This image of the hypocrites is available in different places of the Quran. Some verses from the fourth chapter are presented here.

بَشِّرِ الْمُنٰفِقِيْنَ بِاَنَّ لَهُمْ عَذَابًا اَلِيْمًا ۙ الَّذِيْنَ يَتَّخِذُوْنَ الْكٰفِرِيْنَ اَوْلِيَآءَ مِنْ
دُوْنِ الْمُؤْمِنِيْنَ ۭ اَيَبْتَغُوْنَ عِنْدَهُمُ الْعِزَّةَ فَاِنَّ الْعِزَّةَ لِلّٰهِ جَمِيْعًا ۝ وَقَدْ نَزَّلَ
عَلَيْكُمْ فِي الْكِتٰبِ اَنْ اِذَا سَمِعْتُمْ اٰيٰتِ اللّٰهِ يُكْفَرُ بِهَا وَيُسْتَهْزَاُ بِهَا فَلَا تَقْعُدُوْا
مَعَهُمْ حَتّٰى يَخُوْضُوْا فِيْ حَدِيْثٍ غَيْرِهٖٓ ۡ اِنَّكُمْ اِذًا مِّثْلُهُمْ ۭ اِنَّ اللّٰهَ جَامِعُ
الْمُنٰفِقِيْنَ وَالْكٰفِرِيْنَ فِيْ جَهَنَّمَ جَمِيْعَۨا ۝ الَّذِيْنَ يَتَرَبَّصُوْنَ بِكُمْ ۚ فَاِنْ كَانَ لَكُمْ
فَتْحٌ مِّنَ اللّٰهِ قَالُوْٓا اَلَمْ نَكُنْ مَّعَكُمْ ۡ وَاِنْ كَانَ لِلْكٰفِرِيْنَ نَصِيْبٌ ۙ قَالُوْٓا اَلَمْ
نَسْتَحْوِذْ عَلَيْكُمْ وَنَمْنَعْكُمْ مِّنَ الْمُؤْمِنِيْنَ ۭ فَاللّٰهُ يَحْكُمُ بَيْنَكُمْ يَوْمَ الْقِيٰمَةِ ۭ
وَلَنْ يَّجْعَلَ اللّٰهُ لِلْكٰفِرِيْنَ عَلَى الْمُؤْمِنِيْنَ سَبِيْلًا ۝ اِنَّ الْمُنٰفِقِيْنَ يُخٰدِعُوْنَ اللّٰهَ
وَهُوَ خَادِعُهُمْ ۚ وَاِذَا قَامُوْٓا اِلَى الصَّلٰوةِ قَامُوْا كُسَالٰى ۙ يُرَاۗءُوْنَ النَّاسَ وَلَا
يَذْكُرُوْنَ اللّٰهَ اِلَّا قَلِيْلًا ۝ مُّذَبْذَبِيْنَ بَيْنَ ذٰلِكَ ۡ لَآ اِلٰٓى هٰٓؤُلَاۗءِ وَلَآ اِلٰى
هٰٓؤُلَاۗءِ ۭ وَمَنْ يُّضْلِلِ اللّٰهُ فَلَنْ تَجِدَ لَهٗ سَبِيْلًا ۝ (النساء)

"Give tidings of painful chastisement to the hypocrites who take the unbelievers for their allies in preference to the believers. Do they seek honour from them whereas honour altogether belongs to Allah alone? Allah has enjoined upon you in the Book that when you hear the Signs of Allah being rejected are scoffed at, you will not sit with them until they engage in some other talk, or else you will become like them. Know well, Allah will gather the hypocrites and the unbelievers to Hell - all together. These hypocrites watch you closely; if victory is granted to you by Allah, they will say, "Were we not with you?" And were the unbelievers to gain the upper hand, they will say: "Did

we not have a mastery over you, and yet we protected you from the believers?" It is Allah who will judge between you on the Day of Resurrection, and He will not allow the unbelievers, in anyway, to gain advantage over the believers.

Behold, the hypocrites seek to delude Allah, but it is He who has subjected them to delusion. When they rise to Prayer, they rise reluctantly, and only to be seen by people. They remember Allah but little. They dangle between the one and the other (that is, faith and unbelief), and belong fully neither to these not to those. And he whom Allah lets go astray, for him you can find no way." *(4:138-143)*

Some of the hypocrites preferred to stay in a country which was at war with the Islamic State (Darul Harb) in order safeguard their assets. They conspired with the enemies, and had secured their cooperation and were not willing to migrate when migration had been declared compulsory. They had severed their relationship with Islam. They made their presence felt in the rows of the enemies at a time when the Islamic State was exposed to danger. The Quran ordered that contacts with such people should be cut off and, if necessary, the sword could be raised against them. The Quran says,

فَمَا لَكُمْ فِي الْمُنٰفِقِيْنَ فِئَتَيْنِ وَاللّٰهُ اَرْكَسَهُمْ بِمَا كَسَبُوْا ۭ اَتُرِيْدُوْنَ اَنْ تَهْدُوْا
مَنْ اَضَلَّ اللّٰهُ ۭ وَمَنْ يُّضْلِلِ اللّٰهُ فَلَنْ تَجِدَ لَهٗ سَبِيْلًا ۝۸۸ وَدُّوْا لَوْ تَكْفُرُوْنَ كَمَا
كَفَرُوْا فَتَكُوْنُوْنَ سَوَاۗءً فَلَا تَتَّخِذُوْا مِنْهُمْ اَوْلِيَاۗءَ حَتّٰى يُهَاجِرُوْا فِيْ سَبِيْلِ
اللّٰهِ ۭ فَاِنْ تَوَلَّوْا فَخُذُوْهُمْ وَاقْتُلُوْهُمْ حَيْثُ وَجَدْتُّمُوْهُمْ ۠ وَلَا تَتَّخِذُوْا مِنْهُمْ
وَلِيًّا وَّلَا نَصِيْرًا ۝۸۹ (النساء)

"What has happened to you that you have two minds about the hypocrites even though Allah has reverted them owing to the sins that they earned? Do you want

to lead those to the Right Way whom Allah let go astray? And he whom Allah lets go astray for him you can never find a way. They wish that you should disbelieve just as they disbelieved so that you may all be alike. Do not therefore take allies from them until they emigrate in the Way of Allah (to Madinah) but if they turn their backs (on emigration), seize them and slay them wherever you come upon them. Take none of them for your ally or helper." (4:88, 89)

In Surah Mujadalah (chapter 58), the conduct of the hypocrites is under discussion. At one and the same time, they were strengthening their ties with Allah's enemies and were eager to furnish proof of their faith by resorting to repeated swearing on Allah. They were sincere to none. They were selling their religion and faith to keep their money and wealth but what they wanted to keep would be of no avail in the hereafter. Satan is lording over their heads and these hypocrites are members of his team. After that, mention is made of the conduct of those people who are endowed with the wealth of faith and sincerity and in whose hearts trust in Allah and fear of the hereafter are internalised. It is by no means possible for them to keep in touch privately or publicly with those people who are engaged in armed conflict with Allah and His Messenger, even if they are their closest relatives and are related by blood. Their behaviour will be and ought to be similar to that of a community endowed with a keen sense of honour and of a group championing a sublime ideal. That standard behaviour is illustrated in these words:

لَا تَجِدُ قَوْماً يُّؤْمِنُوْنَ بِاللّٰهِ وَالْيَوْمِ الْاٰخِرِ يُوَآدُّوْنَ مَنْ حَآدَّ اللّٰهَ وَرَسُوْلَهٗ وَلَوْ
كَانُوْٓا اٰبَآءَهُمْ اَوْ اَبْنَآءَهُمْ اَوْ اِخْوَانَهُمْ اَوْ عَشِيْرَتَهُمْ ۭ اُولٰۗىِٕكَ كَتَبَ فِيْ قُلُوْبِهِمُ

الْإِيمَانَ وَأَيَّدَهُمْ بِرُوحٍ مِّنْهُ وَيُدْخِلُهُمْ جَنَّاتٍ تَجْرِي مِن تَحْتِهَا الْأَنْهَارُ خَالِدِينَ فِيهَا ۚ رَضِيَ اللَّهُ عَنْهُمْ وَرَضُوا عَنْهُ ۚ أُولَٰئِكَ حِزْبُ اللَّهِ ۚ أَلَا إِنَّ حِزْبَ اللَّهِ هُمُ الْمُفْلِحُونَ ﴿٢٢﴾ (المجادلة)

"You shall not find a people who believe in Allah and the Last Day befriending those who oppose Allah and His Messenger even though they be their fathers or their sons or their brothers or their kindred. He has inscribed faith in their hearts and has strengthened them with a spirit from Him, and He shall make them enter gardens beneath which rivers flow. Therein they shall abide. Allah is well-pleased with them, and they are well-pleased with Him. They belong to Allah's party. Verily Allah's party shall prosper." (58:22)

Treaty of Hudaibiyah

In spite of faith and sincerity, there always remains a possibility that family ties and social contacts may get the better of love for religion and man may be obliged to take a decision whose consequences may pose a threat to the general interests of the community and of the Islamic State. The noble Quran has administered a warning over a serious lapse of this kind and has explained what the demands of religion and belief are. A few details are briefly given.

The Quraish of Makkah committed excesses on Islam and Muslims. After the Hegira too, they repeatedly imposed battles on them. When Muslims reached a place close to Makkah in order to perform umrah, they were prevented from seeing the Ka'aba, Allah's House. At last, the Treaty of Hudaibiyah was signed.[1] A no-war pact, valid for ten years, was signed.

[1] For fuller details, please consult Ibn Hisham, Sirat al Nabi: 3/355 and following pages, and other books on Sirat.

One of the conditions spelt out in the Treaty was the freedom given to all tribes to form alignment with either the Muslims or the Quraish. As a result, Banu Khuza'a chose to ally with the Muslims and Banu Abu Bakr preferred to tie up with the Quraish. [1] Soon thereafter, Banu Abu Bakr launched an attack on Banu Khuza'a. The Quraish lent support to their ally Banu Abu Bakr with weapons and warriors and, breaking the Treaty, joined hands with them to inflict brutality and torture on Banu Khuza'a. This was a clear violation of an international convention. After that, Allah's Messenger (Sal) began to prepare for war secretly.[2]

The Incident involving Hazrat Hatib bin Abi Balta'ah

During the period of war preparations, Hazrat Hatib bin Abi Balta'ah, who was a sincere Muslim beyond doubt, and who had participated in the Battle of Badr, sent a letter to the Quraish in which he divulged the secret that Allah's Messenger (Sal) was making preparations for war. A lady was carrying that letter. She had just covered some distance from Madinah when Allah informed the Prophet through revelation. He sent Hazrat Ali and three other Companions and got the letter retrieved from her. When Hatib bin Ali Balta'ah was asked about the letter, he owned up that he had sent it, and in self-defence replied that he had no blood relationship with the Quraish and he was just being friendly towards them. In the event of a war, the relatives of the Mohajirs living in Makkah and their belongings would

[1] The text of the Treaty is available in Ibn Hisham: 3/366

[2] For the attack on Banu Khuza'a and the causes for the attack and the consequences, please see Ibn Hisham, Sirat-al-Nabi: 4/3-15.

be safe in Makkah whereas there would be no such protection for his children and relatives and so he thought of a precautionary measure. If he revealed the secret to the Quraish in advance, then they would be thankful to him and take care of his kith and kin. He was quite sure that the divulgence of the secret was not going to affect the pre-ordained outcome in the least as the time was ripe for the decline and fall of the Quraish power. He made a clean breast of the motive behind his move. There was no inner change; he had neither embraced Kufr nor abandoned Islam. Whatever Hazrat Hatib (Radi) said was truth, the sole truth and nothing but the truth. Allah's Messenger (Sal) accepted his apology. On the occasion, the following verses were revealed.[1]

يَآأَيُّهَا الَّذِيْنَ اٰمَنُوْا لَا تَتَّخِذُوْا عَدُوِّيْ وَعَدُوَّكُمْ اَوْلِيَآءَ تُلْقُوْنَ اِلَيْهِمْ بِالْمَوَدَّةِ وَقَدْ كَفَرُوْا بِمَا جَآءَكُمْ مِّنَ الْحَقِّ يُخْرِجُوْنَ الرَّسُوْلَ وَاِيَّاكُمْ اَنْ تُؤْمِنُوْا بِاللّٰهِ رَبِّكُمْ اِنْ كُنْتُمْ خَرَجْتُمْ جِهَاداً فِيْ سَبِيْلِيْ وَابْتِغَآءَ مَرْضَاتِيْ تُسِرُّوْنَ اِلَيْهِمْ بِالْمَوَدَّةِ وَاَنَا اَعْلَمُ بِمَآ اَخْفَيْتُمْ وَمَآ اَعْلَنْتُمْ وَمَنْ يَّفْعَلْهُ مِنْكُمْ فَقَدْ ضَلَّ سَوَآءَ السَّبِيْلِ ۝١ اِنْ يَّثْقَفُوْكُمْ يَكُوْنُوْا لَكُمْ اَعْدَآءً وَّيَبْسُطُوْٓا اِلَيْكُمْ اَيْدِيَهُمْ وَاَلْسِنَتَهُمْ بِالسُّوْٓءِ وَوَدُّوْا لَوْ تَكْفُرُوْنَ ۝٢ لَنْ تَنْفَعَكُمْ اَرْحَامُكُمْ وَلَآ اَوْلَادُكُمْ يَوْمَ الْقِيٰمَةِ يَفْصِلُ بَيْنَكُمْ وَاللّٰهُ بِمَا تَعْمَلُوْنَ بَصِيْرٌ ۝٣ (الممتحنة)

"Believers, if you have left (your homes and) have come forth to struggle in My Way and to seek My good pleasure, do not make friends with My enemies and your enemies. You befriend them whereas they have spurned the Truth that has come to you; and (such is their enmity that) they expel the Messenger and yourselves for no other reason than that you believe in

[1] Bukhari, katib al jihad, Kitab al Maghazi, Muslim, Kitab al-Fazail. For details see Ibn Kathir 4/346. Qurtubi, Al Jami li ahkam al Quran 18/50-52.

Allah, your Lord. You sent to them messages of friendship in secrecy, although I know well whatever you do, be it secretly or publicly. And whosoever of you does so has indeed strayed far away from the Straight Path.

If they could overcome you, they would act as your foes and would hurt you by their hands and tongues, and would love to see you become unbelievers. On the Day of Resurrection neither your blood-kindred nor your own offspring will avail you. (On that Day) He will separate you. Allah sees all that you do." (60:1-3)

Allah addresses the believers in the verses quoted. When they had left their hearths and homes and migrated to Madinah only to secure Allah's pleasure and to spend life and property in Allah's way, how could they befriend the very people who were so intolerant as to force Allah's Messenger (Sal) and then to move out of Makkah where they were residing just because they called upon Allah the one Lord and were inviting others to embrace Allah's religion. Their swords remained unsheathed in spite of the Migration and were baying for the Muslim blood. They were just biding their time. Their tongues were spewing fire. They were torturing the Muslims whenever they could and to the maximum extent possible. Their fond desire and earnest endeavour was to divert the Muslims from the path of allegiance to God to the primrose path of sin. When such is the case, how would Muslims be justified in maintaining secret connection with the enemies and in going to the extent of revealing state secrets? They should be aware of the fact that nothing could be kept hidden from Allah. Everything is an open book to Him. The revelation of a state secret was motivated by an anxiety for the protection of one's belongings and one's relatives even though on the Day

of Judgment family ties would be torn asunder and attachments would cease to exist. What would survive in the hereafter would be love for and loyalty to Allah.

Treachery of the Makkans and the Commandment of Jihad

The ninth chapter of the Quran has Jihad as its dominant theme. A detailed description of the treachery of the Makkans and the circumstances leading to the promulgation of the order of Jihad is available in it. In justification of Jihad, the following is stated:

> *"How can there be any covenant with the other polytheists for were they to prevail against you, they will respect neither kinship nor agreement. They seek to please you with their tongues while their hearts are averse to you, and most of them are wicked. They have sold the revelations of Allah for a paltry price and have firmly hindered people from His Path. Evil indeed is what they have done. They neither have any respect for kinship nor agreement in respect of the believers. Such are indeed transgressors. But if they repent and establish Prayer and give Zakah they are your brothers in faith. Thus do We expound Our revelations to those who know. But if they break their pledges after making them and attack your faith, make war on the leaders of unbelief that they may desist, for they have no regard for their pledged words.*
>
> *Will you not fight against those who broke their pledges and did all they could to drive the Messenger away and initiated hostilities against you? Do you fear them? Surely Allah has greater right that you should fear Him, if you were true believers." (9:8-13)*

Love for Allah and His Messenger supersedes all other attachments

These circumstances made the defeat of the enemy obligatory. Relationships and contacts, material and worldly interests could not be allowed to become roadblocks on the path to eliminate the enemy because allowing the roadblocks to exist would be nothing but courting political death. That is why the following verses were revealed:

يَٰٓأَيُّهَا ٱلَّذِينَ ءَامَنُوا۟ لَا تَتَّخِذُوٓا۟ ءَابَآءَكُمْ وَإِخْوَٰنَكُمْ أَوْلِيَآءَ إِنِ ٱسْتَحَبُّوا۟ ٱلْكُفْرَ عَلَى ٱلْإِيمَٰنِ ۚ وَمَن يَتَوَلَّهُم مِّنكُمْ فَأُو۟لَٰٓئِكَ هُمُ ٱلظَّٰلِمُونَ ﴿٢٣﴾ قُلْ إِن كَانَ ءَابَآؤُكُمْ وَأَبْنَآؤُكُمْ وَإِخْوَٰنُكُمْ وَأَزْوَٰجُكُمْ وَعَشِيرَتُكُمْ وَأَمْوَٰلٌ ٱقْتَرَفْتُمُوهَا وَتِجَٰرَةٌ تَخْشَوْنَ كَسَادَهَا وَمَسَٰكِنُ تَرْضَوْنَهَآ أَحَبَّ إِلَيْكُم مِّنَ ٱللَّهِ وَرَسُولِهِۦ وَجِهَادٍ فِى سَبِيلِهِۦ فَتَرَبَّصُوا۟ حَتَّىٰ يَأْتِىَ ٱللَّهُ بِأَمْرِهِۦ ۗ وَٱللَّهُ لَا يَهْدِى ٱلْقَوْمَ ٱلْفَٰسِقِينَ ﴿٢٤﴾ (التوبة)

"Believers! do not take your fathers and your brothers for your allies if they choose unbelief in preference to belief. Whosoever of you takes them as allies those are wrong - doers. Tell them (O Prophet): "If your fathers and your sons and your brothers and your wives and your tribe and the riches you have acquired and the commerce of which you fear a slackening, and the dwellings you love, if they are dearer to you than Allah and His Messenger and striving in His cause, then wait, until Allah brings about His decree. Allah does not guide the evil-doing folk." *(9:23,24)*

These statements of the holy Quran give a fair index of the gravity of the situation produced jointly by the polytheists, the Jews and the Christians and the hypocrites. Muslims were obliged to pass through war conditions; pledges were being broken; plots were being hatched; war clouds were hovering over the

state; in fact, the enemy had launched its attack, and there remained no possibility of peace. In such a crisis, if any individual tries to foster ties of affection and secret contacts with the forces hostile to the community and the state, such an act would be construed as an act sedition and revolt. No nation will connive at it; how then can Islam be expected to permit its followers to fall a prey to the conspiracies of the enemy and to reinforce the enemy and to endanger the survival of the state? The Islamic State was facing the external and internal threats simultaneously and so warned its followers to be vigilant against both. The order, both perfect and prompt, was that in addition to the polytheists and the people of the Book, contacts should be severed from hypocrites too. Only he who is unfamiliar with political complexities can take exception to it. These contacts spell doom not only from the national and political viewpoint but also from the angle of religion and belief. If a Muslim maintains close contacts with people whose hostility and hatred towards Islam are well-known, and who are actively spearheading a military campaign against it and whose sole objective is to eradicate Islam totally, then he cannot safeguard his faith; his loyalty to it may flag at some stage or other. Keeping the hypocrites at a distance was necessary because whenever a crisis arose they would openly voice their lack of trust in Allah and His Messenger as a policy. Their endeavour was totally geared to whipping up an atmosphere of doubts and misgivings and to deprive Muslims of their beliefs and certitudes. Their own uncertainties had infectious properties. The timely warnings of the Quran saved the situation.

Neutral People deserve hadsome Behaviour

This is an exceptional situation. Where such a situation does not prevail, the glorious Quran does not prohibit pleasant dealings and good conduct towards polytheists and non-Muslims. That's why at the beginning of chapter 60, Muslims are told that those who are Allah's and Muslims' enemies and who have committed all sorts of excesses against them should not be befriended.[1]

Immediately after that, these verses follow:

لَا يَنْهٰكُمُ اللّٰهُ عَنِ الَّذِيْنَ لَمْ يُقَاتِلُوْكُمْ فِي الدِّيْنِ وَلَمْ يُخْرِجُوْكُمْ مِّنْ دِيَارِكُمْ اَنْ تَبَرُّوْهُمْ وَتُقْسِطُوْٓا اِلَيْهِمْ ۭ اِنَّ اللّٰهَ يُحِبُّ الْمُقْسِطِيْنَ ۝ اِنَّمَا يَنْهٰكُمُ اللّٰهُ عَنِ الَّذِيْنَ قٰتَلُوْكُمْ فِي الدِّيْنِ وَاَخْرَجُوْكُمْ مِّنْ دِيَارِكُمْ وَظٰهَرُوْا عَلٰٓى اِخْرَاجِكُمْ اَنْ تَوَلَّوْهُمْ ۚ وَمَنْ يَّتَوَلَّهُمْ فَاُولٰۗىِٕكَ هُمُ الظّٰلِمُوْنَ ۝ (الممتحنة)

"Allah does not forbid that you be kind and just to those who did not fight against you on account of religion, nor drove you out of your homes. Surely Allah loves those who are equitable. Allah only forbids you to be friends with those who have fought against you on account of religion and who have driven you out of your homes and have abetted in your expulsion. And any who make friends with them, they are the wrong-doers."[2] *(60:8, 9)*

This lucid and explicit instruction is to the effect that only those who persecuted Muslims, endeavoured to decimate them and practised sedition against the Islamic State were to be boycotted. As regards those non-Muslims whose behaviour was quite different and who did not raise cudgels against Muslims, dealing

[1] References to the verses have been given earlier in the discussion.

[2] Elucidation of these verses has been made in chapter 2 'Good Behaviour towards fellow human beings'.

with them handsomely, justly, equitably, courteously and with milk of human kindness does not one whit militate against the lofty precepts of Islam. Allah is the One who loves those who act scrupulously fairly. It is not at all fair to treat the holy Quran's instruction about the conduct meant for the opponents and the enemies as a standing order for all non-Muslims. To do so is an act of perversity that can never guide a person to an infallible conclusion.

Some Technical Terms relating to Boycott

It is now time to consider whether total boycott is ordered or only a special kind of contacts with the opponents is prohibited even during the precarious conditions of war. For this purpose, attention has to be bestowed upon some select terms used in the Quranic verses under discussion as the nature of prohibition will get clarified from the discussion of those terms. One of those terms is "Bitana", used in 3:118.

"Bitana" Defined

The source phonemes of 'Bitana' are B.T.N. The "Sihah" of Johari explains that "Bitanatal athaubi" refers to the internal /hidden part of clothes. The antonym for the phrase is "Ziharat athanbi" which means the external part of the clothes. A man's closest circle of friends enjoying his confidence is known as "Bitanatul Rajul".[1]

Imam Raghib says,

البطانة خلاف الظهارة ... وتستعار البطانة لمن تختصّه بالاطلاع على باطن امرک۔

[1] Abu Nasr Ismail bin Hammad Al-Jauhari, Taj al Lughat wa Sihah al-Arabia: 2/357.

"'Bitana' is an antonym of 'zihara'. This is metaphorically used for a person in whom you choose to confide your most guarded secrets."[1]

Allama Ibne Jareer Tabari, one of the earliest commentators on the Quran, offers his interpretations in this way:

انما جعل البطانة مثلاً لخليل الرجل فشبّهه بما ولى بطنه من ثيابه لحلوله منه فى اطلاعه على اسراره و ما يطويه عن اباعده و كثير من اقاربه محل ما ولى جسده من ثيابه۔

"As an example, a man's bosom friend is described as 'Bitana'. He stands as a symbol for that part of the clothing which is closer to the body. It is because a friend of this type has the advantage of getting to know the secrets and other pieces of information of a person whereas others and even one's own kith and kin do not have such an advantage. He has that vantage point which the inner part of the clothing has."[2]

"Moula" Defined:

Some verses from among them state that enemies should not be made "Aulias". (5:51.57; 4:88, 89,138, etc.) "Auliya" is the plural of "Vali" and the word carries the connotation of extreme proximity, help, and support, authority and patronage.[3]

From the same basic source, the word 'Moula' is derived and used in multiple ways - Lord, owner, leader, granter of bounties, patron, emancipator of slaves, helper, affectionate person, sincerely subservient, neighbour, cousin, ally, a sharer of a covenant, son-in-law, slave, a freed slave, a recipient

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[1] Raghib, Mufradut al Quran.
[2] Ibn Jarir, Jami-ul-Bayan: 7/138.
[3] Raghib, Mufradat al Quran.

of munificence. Allama Ibne Athir says that, in the literature of Hadith, numerous examples are available of how these meanings are made use of. The context determines the semantic variety of the word.[1]

Reflecting on the usage of these terms, one learns that Islam restrains Muslims from establishing cordial relations with the enemies of Islam and from eliciting sympathy, patronage and support from them. It does not expect its followers to get yoked to their opponents, to get closer to those who are engrossed in severing their roots, to look upon them as men of sincerity and goodwill, to keep them on a par with genuine friends and relatives, and to divulge secret affairs of the state to them under the delusion that their sympathy and goodwill are above board. This Islamic instruction is unexceptionable because there is no ethical or legal justification for such cordial relationships with foes. Apart from this exception, the Quranic verses do not stand in the way of maintaining contacts in order to demonstrate humanitarian behaviour, and pleasant manners, and to render prompt service in the hour of pain and sorrow.

"Mawaddath" Explained

While continuing the discussion, another concept which is included in the prohibited list is "Mawaddath". (60:1) Allama Khazin says:

فان قلت: قد أجمعت الامة على أنّه تجوز مخالطتهم و معاملتهم و معاشرتهم فما هٰذه المودّة المحظورة؟ قلت: المودّة المحظورة هى مناصحتهم و إرادة الخير لهم ديناً و دنيا مع كفرهم، فإمّا ما سوى ذٰلک فلا حظر فيه۔

[1] Ibn Athir, An Nihaya fi gharib al Hadith: 4/231

"The Ummah is unanimous that it is permissible to mingle with unbelievers, to have transactions with them and to foster social contacts. Then the question arises, if so, which type of Mawaddath is prohibited? It is this- maintaining a contact of sincerity and goodwill both in worldly and other-worldly matters totally ignoring Kufr, (the spiritual core of the unbelievers.) Apart from this, contacts in all other matters are permissible."[1]

The upshot of all this discussion is that the issue of maintaining contacts with unbelievers or not maintaining them is by no means a controversial issue. All contacts are valid. However, a Muslim cannot yearn from the bottom of his heart to take recourse to a line of action that will strengthen their unbelief and polytheism. And so, sincerity and goodwill towards them dictate a Muslim to show them the path of Truth and to bring home to them how true Islam is.

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[1] Khazin, Lubab al Taweel fi ma'ani al tanzeel: 1/46

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